

ORIGINAL

NEW APPLICATION



0000049102

BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER  
CHAIRMAN  
WILLIAM A. MUNDELL  
COMMISSIONER  
JEFF HATCH-MILLER  
COMMISSIONER  
MIKE GLEASON  
COMMISSIONER  
KRISTIN K. MAYES  
COMMISSIONER

2006 APR 12 P 2:41

AZ CORP COMMISSION  
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

APR 12 2006

DOCKETED BY	<i>CM</i>
-------------	-----------

IN THE MATTER OF THE APPLICATION OF  
ARIZONA-AMERICAN WATER COMPANY, AN  
ARIZONA CORPORATION, FOR AN EXTENSION  
OF THE SERVICE AREA UNDER ITS EXISTING  
CERTIFICATES OF CONVENIENCE AND  
NECESSITY TO PROVIDE WATER AND SEWER  
UTILITY SERVICES IN ITS AGUA FRIA WATER  
AND WASTEWATER DISTRICTS

WS-01303A-06-0242

Docket No. WS-01303A-06-\_\_\_\_\_

1 Under Ariz. Rev. Stat. § 40-281, A.A.C. R14-2-402(C), and A.A.C. R14-2-602(C),  
2 Arizona-American Water Company ("Arizona-American"), submits this application to the  
3 Arizona Corporation Commission to extend the certificated water and sewer service territories  
4 for its Aqua Fria Water and Wastewater districts. The purpose of the extension is to provide  
5 public utility water and sewer service to a new development known as Tesota Hills in the Town  
6 of Buckeye, Arizona. Arizona-American provides the following information in support of this  
7 application.

8 **1. COMPANY INFORMATION**

9 Arizona-American is an Arizona corporation engaged in the business of providing water  
10 and wastewater utility service to customers in its various water and wastewater districts located  
11 in portions of Maricopa, Mohave, and Santa Cruz counties in Arizona under authority granted by  
12 the Commission. Arizona-American is a wholly-owned subsidiary of American Water Works  
13 Company, Inc. Arizona-American's ultimate parent is RWE AG.

1 **2. COMPANY'S CONTACT INFORMATION**

2 **2.1. Management**

3 Don Breeding  
4 Development Services Director  
5 19820 N. 7<sup>th</sup> Street  
6 Suite 201  
7 Phoenix, AZ 80024  
8 (623) 445-2446  
9

10 **2.2. Certified Operator**

11 Brian Biesemeyer, Arizona Network General Manager  
12 15626 N. Del Webb Blvd.  
13 Sun City, AZ 85351  
14 (623) 815-3125  
15

16 **2.3. Attorney**

17 Craig Marks  
18 19820 N. 7<sup>th</sup> Street  
19 Suite 201  
20 Phoenix, AZ 80024  
21 (623) 445-2442

22 **3. EXHIBIT LIST**

23 Arizona-American's filing is supported by the following exhibits:

<b>Exhibit A</b>	Certificate of Good Standing
<b>Exhibit B</b>	Balance Sheet and Income Statement
<b>Exhibit C</b>	Water and Sewer CC&N Map
<b>Exhibit D</b>	Tesota Hills Legal Description and Map
<b>Exhibit E</b>	Water Facilities Line Extension Agreement
<b>Exhibit F</b>	Wastewater Facilities Line Extension Agreement
<b>Exhibit G</b>	Ak-Chin Water Lease
<b>Exhibit H</b>	Third Amendment to Anthem Agreement

<b>Exhibit I</b>	Water Use Data Sheet
<b>Exhibit J</b>	Form of Public Notice
<b>Exhibit K</b>	Town of Buckeye Franchise

1    **4. CERTIFICATE OF GOOD STANDING**

2            Arizona-American's Certificate of Good Standing is attached as Exhibit A. No corporate  
3 resolution is required for this application.

4    **5. FINANCIAL INFORMATION**

5            Arizona-American's balance sheet and income statement for the year ending December  
6 31, 2005, are attached as Exhibit B.

7    **6. EXISTING CC&NS**

8            A map of the neighboring portion of Arizona-American's existing CC&Ns for its Agua  
9 Fria Water and Agua Fria Wastewater districts is attached as Exhibit C.

10   **7. LEGAL DESCRIPTION**

11           A legal description of the property to be added to the existing CC&Ns is attached as  
12 Exhibit D.

13   **8. MAP**

14           A map of the property to be added to the existing CC&Ns is included with Exhibit D.

15   **9. DEVELOPMENT DESCRIPTION**

16           The developer is Pulte Home Corporation, a Michigan corporation, with offices at 15111  
17 North Pima Road, Suite 101, Scottsdale, Arizona 85260. The developer proposes to develop a  
18 443.68-acre parcel located north of McDowell Road, and west of Airport Road in Buckeye with  
19 single family homes totaling approximately 1070 lots, one commercial (community center)  
20 parcel, and several landscaped non-residential tracts. The development is immediately adjacent  
21 to the Verrado development, which is already included within Arizona-American's certificated

1 service territory. On April 3, 2006, the developer and Arizona-American executed a Line  
2 Extension Agreement for water facilities, attached as Exhibit E, and a Line Extension Agreement  
3 for wastewater facilities, attached as Exhibit F.

4 While the development will rely on groundwater for its assured water supply, the parties  
5 have agreed that, depending upon the well capacity provided to Arizona-American, Pulte Home  
6 Corporation will assign an additional quantity of Ak-Chin Indian Community leased water to  
7 Arizona-American for the provision of future water service within Tesota Hills. The quantity  
8 depends upon the amount of well capacity provided. See Water Line Extension Agreement,  
9 paragraphs IV.4.b. and VII.2.

10 In December 1994, Del Webb entered into an Option and Lease Agreement with the Ak-  
11 Chin Community and the United States for 6,000 to 10,000 acre-feet of Colorado River water to  
12 which the Ak-Chin Community holds an entitlement pursuant to the water rights settlement  
13 established by Congress in 1984 and amended in 1992. In accordance with the agreement, the  
14 lease option was extended one year, and in December 1996, Del Webb exercised the option and  
15 leased 10,000 acre-feet of water from the Ak-Chin Community. The 100-year lease term  
16 commenced in December 1996. The "Water Lease" refers to the [Restated] Option and Lease  
17 Agreement between the Ak-Chin Indian Community, the United States of America, and Del  
18 Webb Corporation, attached as Exhibit G. Del Webb Corporation committed 7,900 acre-feet to  
19 serve the Anthem development. See Third Amendment to Agreement for Anthem  
20 Water/Wastewater Infrastructure, ¶ 2, attached at Exhibit H. Most-recently, Del Webb  
21 Corporation committed 357 acre-feet per year to the Corte Bella development, and 238 acre-feet  
22 per year of the remaining leased amount to the Arroyo Vista development.

23 Pulte Home Corporation will submit its Application for a Certificate of Assured Water  
24 Supply to ADWR shortly, and will provide the Certificate to the Commission as soon as possible  
25 thereafter.

**10. CUSTOMER, CONSUMPTION, AND REVENUE INFORMATION**

***10.1. Customer Projections (cumulative)***

	Year 1	Year 2	Year 3	Year 4	Year 5
Residential	0	65	365	665	965
Commercial: Community center	0	1	1	1	1
Industrial	None	None	None	None	None
Irrigation	0	3	4	4	4
Other: Right-of- way	0	2	4	4	4

***10.2. Consumption Projections (cumulative)***

	Year 1	Year 2	Year 3	Year 4	Year 5
Residential	0	77 af/yr	179 af/yr	282 af/yr	385 af/yr
Commercial	0	5	5 af/yr	5 af/yr	5 af/yr
Industrial	0	0	0	0	0
Irrigation	0	40 af/yr	60 af/yr	80 af/yr	96 af/yr
Other	None	None	None	None	None

***10.3. Water Revenue and Expense Projections***

	Year 1	Year 2	Year 3	Year 4	Year 5
Revenue	\$ 0	\$ 34,210	\$ 179,400	\$ 323,300	\$ 467,200
Operating Expense	\$ 0	\$ 8,600	\$ 45,300	\$ 81,700	\$ 118,000

***10.4. Wastewater Revenue and Expense Projections***

	Year 1	Year 2	Year 3	Year 4	Year 5
Revenue	\$ 0	\$ 45,800	\$ 257,400	\$ 469,000	\$ 680,500
Operating Expense	\$ 0	\$ 8,400	\$ 46,900	\$ 85,400	\$ 124,000

1 **11. CONSTRUCTION INFORMATION**

2 **11.1. Water Facilities**

3 Arizona-American estimates that it will cost approximately \$571,726 to construct water  
4 utility facilities to serve customers in the CC&N expansion area. As more fully set forth in  
5 Exhibit E, these facilities will be largely financed through developer advances and contributions.  
6 Arizona-American will construct the Common Facilities at its own expense, but the developers  
7 will reimburse their cost. Arizona-American estimates that construction of these facilities will  
8 start during July 1, 2006, and will be completed December 31, 2008.

9 **11.2. Wastewater Facilities**

10 Arizona-American expects that any required construction will be financed through hook-  
11 up fees and developer advances and contributions. Arizona-American does not expect that it will  
12 need to finance any significant facilities specifically to serve these customers. Some off-site  
13 facilities and common facilities needed to serve both Verrado and Tesota Hills are being  
14 contributed jointly by the developers of Verrado and Tesota Hills. See Exhibit F, Wastewater  
15 Facilities Line Extension Agreement.

16 **12. WATER USE DATA SHEET**

17 The water use data sheet is attached as Exhibit I.

18 **13. PUBLIC NOTICE**

19 A form of public notice is attached as Exhibit J. Pulte Home Corporation is the sole  
20 owner of the parcel proposed to be added to Arizona-American's CC&Ns and is a party to each  
21 of the two line extension agreements (Exhibits E and F). Each of the line extension agreements  
22 require (paragraph II.3) Arizona-American to apply for an extension to its CC&N. Therefore,  
23 Pulte Home Corporation is on notice of, and consents to, the addition of the requested parcel to  
24 Arizona-American's water and wastewater CC&Ns.

1 **14. PERMITS**

2 A copy of Arizona-American's franchise agreement with the Town of Buckeye is  
3 attached as Exhibit K. Exhibit B to the Buckeye franchise agreement describes the parcel that is  
4 the subject of this application. The Buckeye franchise agreement states (page 2):

5 For purposes of this Franchise, the Franchise Area comprises: ... b. The  
6 portion of the Municipality more particularly described in Exhibit B which is  
7 located north of Interstate 10 and which is not within Grantee's present  
8 certificated area, provided, however, that (with respect to the area described in  
9 this paragraph (b)) water and wastewater services shall be provided by Grantee  
10 only within certificated service areas which are established by the Arizona  
11 Corporation Commission from time to time.

12 Therefore, the requested area will become subject to the franchise agreement once this parcel is  
13 added to Arizona-American's water and sewer CC&Ns.

14 Arizona-American will submit the Approvals to Construct Facilities when they are  
15 available. No other permits are necessary to serve the requested area.


16 **15. RATES PROPOSED TO BE CHARGED**

17 Arizona-American will apply the authorized rates and charges set forth in its Agua Fria  
18 Water District water and wastewater tariffs, on file with the Commission.

19 **16. REQUEST FOR APPROVAL**

20 As set forth in this application, Arizona-American requests authority to extend its  
21 existing certificates of convenience and necessity to provide public utility water and wastewater  
22 service in the contiguous area described on Exhibit D.

23 DATED on April 12, 2006.  
24

25 By   
26 Craig A. Marks  
27 19820 N. 7<sup>th</sup> Street  
28 Suite 201  
29 Phoenix, AZ 85024  
30 Attorney for Arizona-American Water Company  
31 (623) 445-2442  
32 Craig.Marks@amwater.com

1 **Original** and 13 copies filed  
2 on April 12, 2006, with:

3  
4 Docket Control  
5 Arizona Corporation Commission  
6 1200 West Washington  
7 Phoenix, Arizona 85007  
8

9 **Copies** of the foregoing mailed  
10 on April 12, 2006, to:

11  
12 Michele L. Van Quathem  
13 Ryley Carlock & Applewhite  
14 One North Central Ave., Ste. 1200  
15 Phoenix, AZ 85004  
16 Attorneys for Pulte Home Corporation  
17  
18 Mike Brilz  
19 Vice President, Planning and Development  
20 Pulte Home Corporation  
21 West Valley Division  
22 15111 North Pima Road  
23 Suite 101  
24 Scottsdale, Arizona 85260  
25

26  
27 By: \_\_\_\_\_  
28

*Garry Applewhite*



A

# STATE OF ARIZONA



Office of the  
**CORPORATION COMMISSION**  
CERTIFICATE OF GOOD STANDING

*To all to whom these presents shall come, greeting:*

*I, Brian C. McNeil, Executive Director of the Arizona Corporation Commission, do hereby certify that*

**\*\*\*ARIZONA-AMERICAN WATER COMPANY\*\*\***

*a domestic corporation organized under the laws of the State of Arizona, did incorporate on December 30, 1949.*

*I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said corporation is not administratively dissolved for failure to comply with the provisions of the Arizona Business Corporation Act; and that its most recent Annual Report, subject to the provisions of A.R.S. sections 10-122, 10-123, 10-125 & 10-1622, has been delivered to the Arizona Corporation Commission for filing; and that the said corporation has not filed Articles of Dissolution as of the date of this certificate.*

*This certificate relates only to the legal existence of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.*

**IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 11th Day of April, 2006, A. D.**



  
Executive Director

Order Number: 59556

B

83500  
GL023BSY  
0001

American Water Works Company  
Arizona American Water Co 23  
Total Company (USGAAP)  
Comparative Balance Sheet  
For the Period Ending 12/09/2005

03/01/06  
11:34:27

Arizona-American Water Co.

Description	Current Year	Prior Year
ASSETS		
1 Utility plant	521,206,065	463,942,604
2 Construction work in progress	53,657,402	22,709,998
3 Accumulated depreciation	106,107,261	93,569,772
4 Utility plant acquisition adjustment	30,318,303	31,318,414
5 Other utility plant adjustments		
6 Sub-total Utility Plant	499,074,509	424,401,244
7 Non-Utility property	111,151	111,151
8 Other investments	37,286,237	37,086,285
Current Assets		
9 Cash and cash equivalents	1,932,319	6,124,265
10 Temporary investments	3,838,527	2,502,379
11 Allowance for uncollectible accounts	97,466	32,276
12 Unbilled revenues	3,985,400	3,854,041
13 Bill refund due from assoc. companies	4,554,302	2,558,985
14 Miscellaneous receivables	4,642,640	5,609,079
15 Materials and supplies	247,594	337,424
16 Other	404,310	761,579
19 Sub-total	19,507,626	21,775,476
20 Sub-total		
21 Deferred debits		
22 Debt and preferred stock	431,476	476,809
23 Expense of rate proceeding	468,459	351,603
24 Premium survey & invest charges	207,053	611,878
25 Reg Asset-income tax recovery	1,346,335	1,017,069
26 Other	10,588,911	5,732,557
29 Sub-total	13,242,236	8,189,916
30 Total Assets	569,221,759	491,564,072
CAPITAL AND LIABILITIES		
31 Common Stock	522,880	522,880
32 Paid in Capital	114,468,228	114,468,228
33 Retained Earnings	1,258,631	419,248
34 Unearned Compensation		
35 Reacquired C/S & Accum		
36 Comp Inc		
37 Sub-total	116,249,739	115,410,356
38 Total common equity		
39 Preferred stock	198,757,395	198,772,252
40 Long term debt	315,007,134	314,182,608
41 Total capitalization		
42 Current liabilities		
43 Bank debt	30,003,138	23,803
44 Current Portion of LTD	15,251,050	10,542,623
45 Accounts Payable	15,251,593	1,632,830
46 Taxes accrued	2,348,023	1,276,936
47 Interest accrued	1,265,593	53,134
48 Customer deposits	67,683	
49 Dividends declared	9,917,567	8,431,114
50 Other	58,869,647	21,960,440
52 Sub-total		
53 Deferred credits		
54 Customer adv. for construction	160,474,919	131,427,883
55 Deferred income taxes	6,840,208	4,600,193
56 Deferred investment tax credits	67,546	71,266
57 Reg.liab-inc.tax.refund thru rates	241,674	285,882
58 Other	17,260,755	2,562,194
60 Sub-total	174,885,102	138,947,418
62 Contributions in aid of construction	20,459,874	16,473,607
Total capital and liabilities	569,221,757	491,564,073

Arizona-American Water Co.

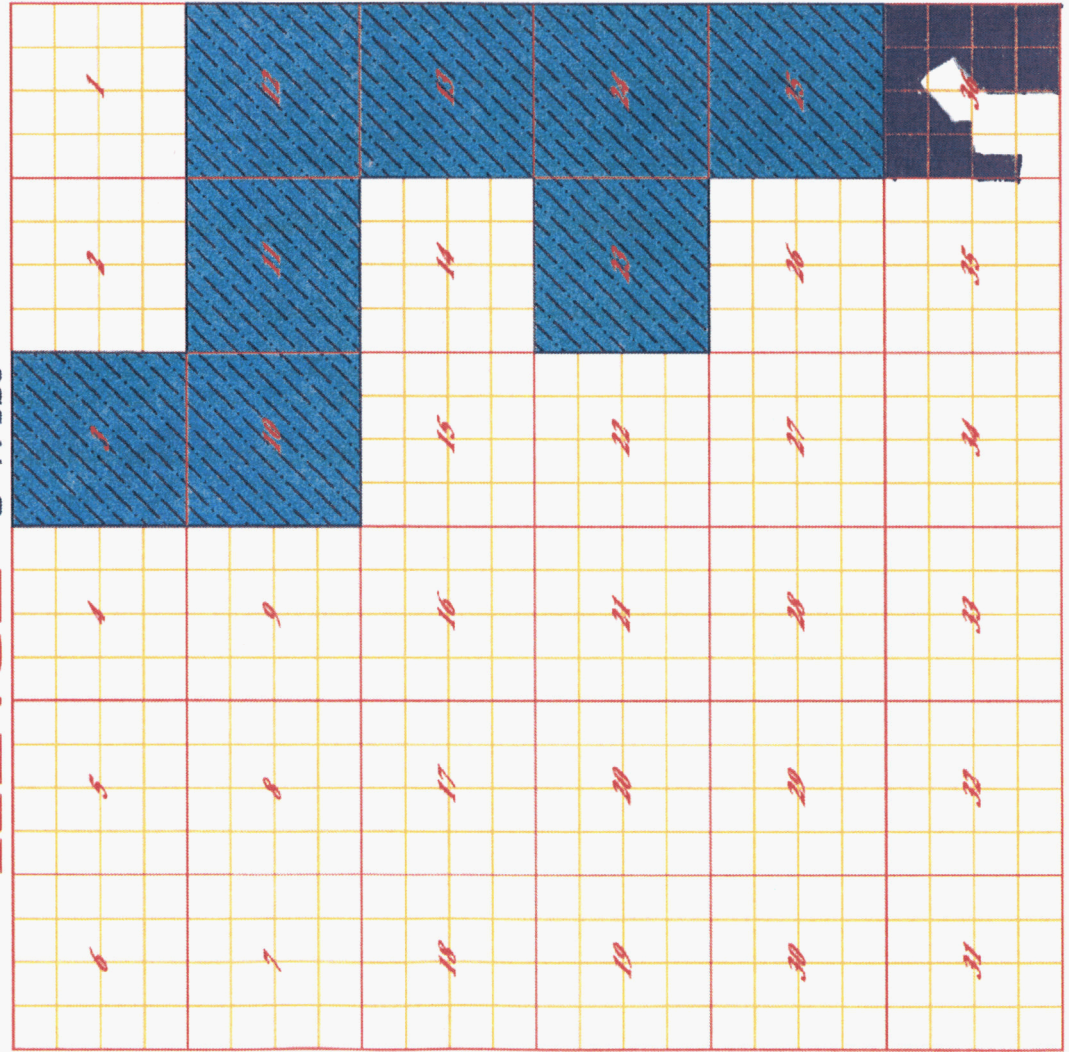
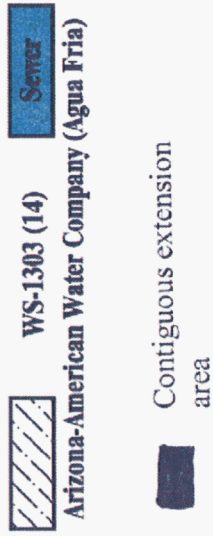
Description	December Actual	December Plan	December Variance	December Prior Year	Yr to Date Actual	Yr to Date December Plan	Yr to Date December Variance	Yr to Date December Prior Year	Annual Forecast
1 OPERATING REVENUES									
2 Water	3,046,357	2,749,013	297,344	2,252,338	37,508,706	36,320,582	1,188,124	36,248,121	36,320,582
3 Sewer	1,232,485	1,061,140	171,345	1,423,615	13,101,146	11,870,058	1,231,088	12,878,278	11,870,058
4 Other	672,734	433,786	238,948	211,450	5,084,269	6,249,317	1,165,048	6,389,206	6,249,317
5 Management									
6 Total Revenues	4,951,576	4,243,939	707,637	3,887,403	55,694,121	54,439,957	1,254,164	55,515,605	54,439,957
7 OPERATIONS & MAINTENANCE EXPENSE									
8 Labor	462,856	478,275	15,419	498,541	5,397,770	5,271,417	126,353	5,012,399	5,271,417
9 Purchased Water	254,470	240,635	13,835	149,417	2,306,858	2,899,465	592,607	3,835,527	2,899,465
10 Fuel & Power	491,539	524,983	33,444	664,521	5,641,612	6,848,346	1,206,734	5,427,556	6,848,346
11 Chemicals	35,705	32,823	2,882	36,966	452,422	452,422		391,823	554,517
12 Waste Disposal	156,502	211,285	54,783	133,354	2,310,381	1,791,054	519,327	3,244,419	1,791,054
13 Management Fees	1,074,290	513,460	560,830	695,967	8,286,010	6,089,106	2,196,904	6,598,116	6,089,106
14 Group Insurance	82,838	93,454	10,616	67,135	931,924	1,050,934	119,010	775,959	1,050,934
15 Pensions	12,033	17,251	5,218	1,827	139,600	687,492	547,892	60,564	687,492
16 Regulatory Expense	15,455	11,657	3,798	19,074	187,326	139,644	48,282	1,122,459	139,644
17 Insurance Other Than Group	89,715	58,135	31,580	51,257	920,259	710,359	209,900	605,605	710,359
18 Customer Accounting	117,431	60,561	56,868	67,178	919,071	741,682	177,389	762,437	741,682
19 Rents	717,585	47,861	669,724	57,345	316,016	489,456	173,440	343,088	489,456
20 General Office Expense	73,313	156,840	83,527	77,031	1,655,114	761,575	893,539	647,191	761,575
21 Miscellaneous	1,027,772	406,561	621,211	74,607	2,994,867	2,337,660	657,207	3,255,195	2,337,660
25 Other Maintenance	103,849	125,060	21,211	102,188	1,167,679	1,563,508	395,829	1,102,226	1,563,508
Total Maintenance & Operations Expense	4,674,528	3,043,301	1,631,227	2,712,754	33,627,509	31,936,215	1,691,294	33,063,436	31,936,215
27 Depreciation	1,300,452	1,387,045	86,593	1,168,424	14,394,948	15,196,679	801,731	12,909,349	15,196,679
28 Amortization	23,763	26,288	2,525	21,626	300,354	315,456	15,102	292,153	315,456
29 General Income Taxes	210,609	210,969	360	188,770	2,363,298	2,510,333	147,035	2,290,074	2,510,333
30 State Income Taxes	302,577	92,408	210,169	65,068	377,412	376,125	1,287	43,622	376,125
31 Federal Income Taxes	1,158,427	472,662	685,765	299,941	1,520,906	1,924,448	403,542	251,477	1,924,448
32 Tax Savings Acquisition Adjustment									
33 Total Operating Expenses	4,748,348	4,102,533	645,815	3,726,565	48,787,791	47,658,110	1,129,681	48,259,913	47,658,110
34 Utility Operating Income	203,228	141,406	61,822	160,838	6,906,330	6,781,847	124,483	7,255,692	6,781,847
35 OTHER INCOME & DEDUCTIONS									
36 Non-Operating Rental Income									
37 Dividend Income-Common									
38 Dividend Income-Preferred									
39 Interest Income									
40 AFUDC Equity	275,390	40,507	234,883	7,858	8,592	777,280	1,146,144	15,355	777,280
42 M & J Miscellaneous Income	57,205		57,205	59,108	1,923,424		186,735	935,179	
43 Gain(Loss) on Disposition	2,059,104		2,059,104	1,041	2,541,849		2,541,849	783,365	
45 Total Other Income	2,391,699	40,507	2,351,192	68,087	4,660,600	777,280	3,883,320	1,734,569	777,280
46 Miscellaneous Amortization									
47 Tax Savings Acquisition Adjustment									
48 Misc. Other Deductions									
49 General Taxes	129,307		129,307	3,530	3,224		3,224	11,471	
50 State Income Taxes	649,503		649,503	623	130,502		190,502	54,528	
51 Federal Income Taxes					956,883		956,883	273,893	
52 Total Other Deductions	778,810		778,810	7,283	1,150,609		1,150,609	339,892	
53 Total Other Income	1,612,889	40,507	1,572,382	60,804	3,509,991	777,280	2,732,711	1,394,677	777,280
54 Income Before Interest Charges	1,816,117	181,913	1,634,204	221,662	10,416,321	7,559,127	2,857,194	8,650,369	7,559,127
55 INTEREST CHARGES									
56 Interest on Long-Term Debt	820,001	937,138	117,137	814,120	9,856,003	10,930,656	1,074,653	8,685,070	10,930,656
57 Amortization and Debt Expense	3,778	4,096	318	3,778	35,333	49,152	13,819	48,196	49,152
58 Interest-Short Term Bank Debt	141,183	25,135	116,048	394	447,661	103,254	344,207	178,658	103,254
59 Other Interest Expense	96		96	95	42,562	36,907	5,655	36,907	
60 AFUDC-Debt	107,976	21,823	86,153	21,673	729,298	418,747	310,551	319,328	418,747
61 Total Interest Charges	857,082	944,546	87,464	796,664	9,576,937	10,664,315	1,087,378	8,555,689	10,664,315
62 Net Income	959,035	762,633	1,926,402	575,022	839,384	3,105,188	3,944,572	94,680	3,105,188
64 Preferred Dividend Declared									
65 Net Income to Common Stock	959,035	762,633	1,926,402	575,022	839,384	3,105,188	3,944,572	94,680	3,105,188

C

# COUNTY: Maricopa

RANGE 3 West

TOWNSHIP 2 North



D



**TESOTA HILLS  
LEGAL DESCRIPTION**

Lots 3 and 4 and the north half of the Southeast quarter of Section 36, Township 2 North, Range 3 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

**EXCEPT** that portion lying westerly of that certain line described as follows:

**COMMENCING** at the East quarter corner of said Section 36;

Thence North 89 degrees 49 minutes 08 seconds West, along the mid-section line of said Section 36, 2090.00 feet to the **POINT OF BEGINNING** of the line to be described, herein;

Thence South 24 degrees 25 minutes 35 seconds West, 1324.48 feet to the **POINT OF ENDING** of said line on the north-south mid-section line of said section 36, said point being North 00 degrees 02 minutes 28 seconds West, 1473.86 feet from the South quarter corner of said Section 36; and

The north half, and the north half of the southwest quarter, of Section 36, Township 2 North, Range 3 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

**EXCEPT** the east half of the northwest quarter of the Southwest quarter of said Section 36, and

**EXCEPT** the northeast quarter of the Southwest quarter of said Section 36, and

**EXCEPT** that portion of the north half of said Section 36, described as follows:

**BEGINNING** at a point on the east-west mid-section line of said Section 36, which point bears South 89 degrees 46 minutes 11 seconds West, 2090.00 feet from the East quarter corner, thereof;

Thence North 45 degrees 00 minutes 00 seconds East, 1000.00 feet;

Thence North 45 degrees 00 minutes 00 seconds West, 1300.00 feet;

Thence South 45 degrees 00 minutes 00 seconds West, 1877.87 feet;

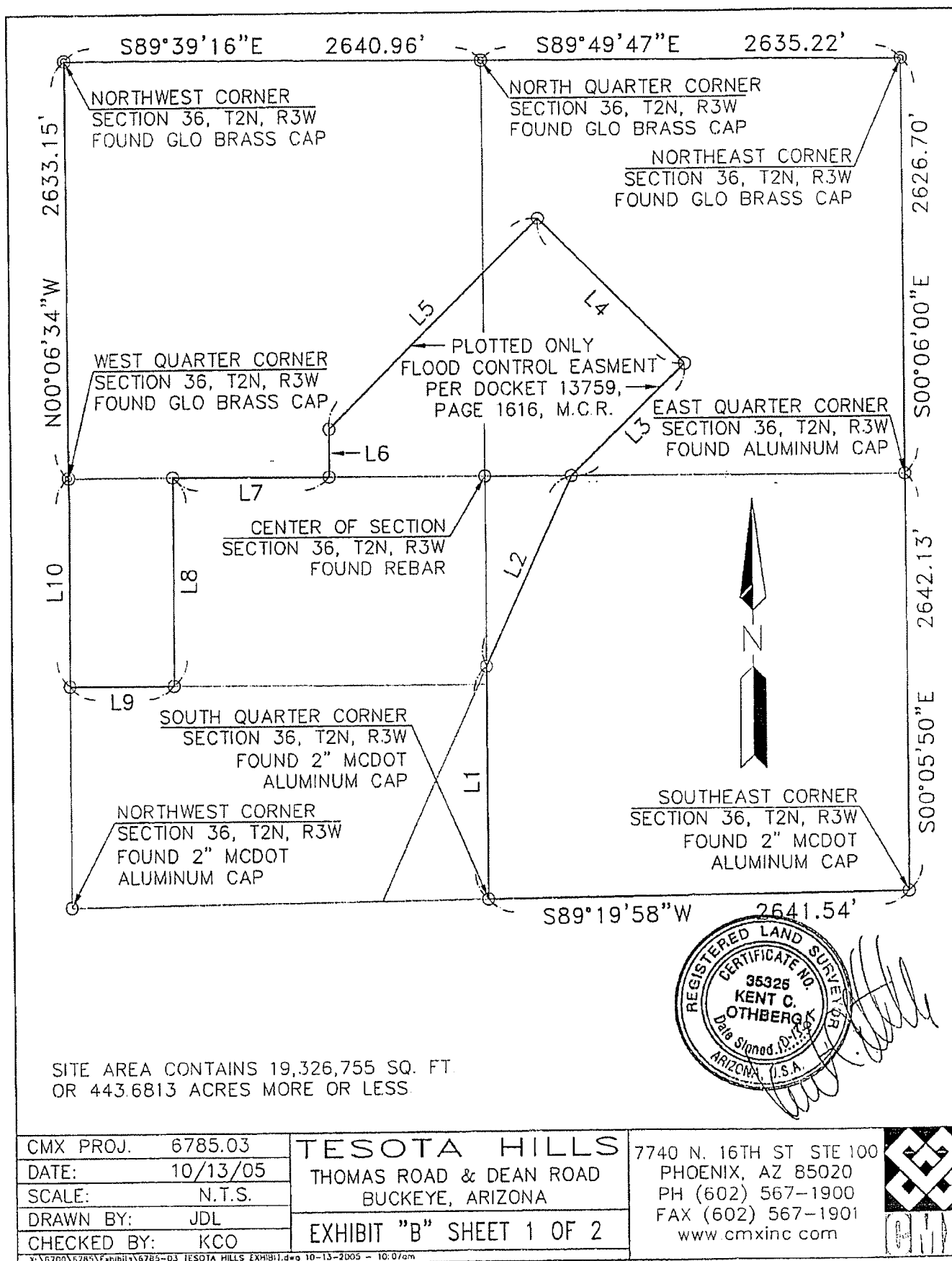
Thence south, 304.60 feet to the aforesaid east-west mid-section line;

Thence north 89 degrees 46 minutes 11 seconds East, along the said east-west mid-section line, 1540.00 feet to the **POINT OF BEGINNING**.

Site area contains 19,326,755 Square Feet or 443.6813 Acres, more or less and being subject to any easements, restrictions, rights of way of record or otherwise.

Prepared by: CMX L.L.C.  
7740 N. 16th Street, Suite 100  
Phoenix, AZ 85020  
Project No. 6785.03  
October 13, 2005





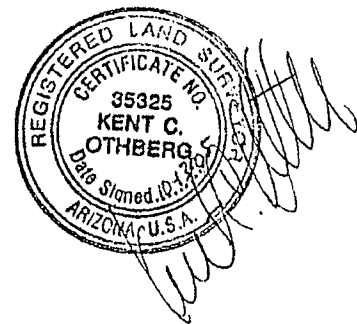
CMX PROJ.	6785.03
DATE:	10/13/05
SCALE:	N.T.S.
DRAWN BY:	JDL
CHECKED BY:	KCO

**TESOTA HILLS**  
 THOMAS ROAD & DEAN ROAD  
 BUCKEYE, ARIZONA  
**EXHIBIT "B" SHEET 1 OF 2**

7740 N. 16TH ST STE 100  
 PHOENIX, AZ 85020  
 PH (602) 567-1900  
 FAX (602) 567-1901  
 www.cmxinc.com



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N00°01'53"W	1473.81'
L2	N24°25'35"E	1324.49'
L3	N45°25'06"E	1000.00'
L4	N44°34'54"W	1300.00'
L5	S45°25'06"W	1877.87'
L6	S00°25'06"W	304.68'
L7	N89°48'43"W	986.37'
L8	S00°01'08"E	1322.20'
L9	N89°47'47"W	659.43'
L10	N00°00'52"W	1322.02'



CMX PROJ. 6785.03  
DATE: 10/13/05  
SCALE: N.T.S.  
DRAWN BY: JDL  
CHECKED BY: KCO

**TESOTA HILLS**  
THOMAS ROAD & DEAN ROAD  
BUCKEYE, ARIZONA  
**EXHIBIT "B" SHEET 2 OF 2**

7740 N. 16TH ST. STE.100  
PHOENIX, AZ 85020  
PH (602) 567-1900  
FAX (602) 567-1901  
www.cmxinc.com



E

**WATER FACILITIES  
LINE EXTENSION AGREEMENT**

This Agreement is made this 3<sup>rd</sup> day of ~~March~~ <sup>April</sup>, 2006 by and between Arizona-American Water Company, an Arizona corporation, (hereinafter referred to as "Utility"), with offices at 19820 N. 7<sup>th</sup> Street, Suite 201, Phoenix, Arizona 85024 and Pulte Home Corporation (hereinafter referred to as "Developer"), a Michigan corporation, with offices at 15111 North Pima Road, Suite 100, Scottsdale, Arizona 85260.

**W I T N E S S E T H**

WHEREAS, Utility provides public utility water service in portions of the Town of Buckeye, Arizona; and,

WHEREAS, Utility holds a Franchise for water services for the project issued by the Town of Buckeye; and

WHEREAS, Developer proposes to develop a 444-acre parcel with up to 1,070 single family homes known as Tesota Hills (hereinafter referred to as "Development"), located in the Town of Buckeye as described in Exhibit "A"; and,

WHEREAS, Utility is willing to apply to the Arizona Corporation Commission (hereinafter referred to as "Commission") for an expansion of Utility's current Certificate of Convenience and Necessity to include said Development; and,

WHEREAS, to meet the public utility water service needs of the Development, certain Distribution Facilities as described in Exhibit "B", attached hereto and incorporated by reference, must be constructed; and,

WHEREAS, Utility is willing to have Developer design and construct the Distribution Facilities, subject to Utility's written approval of the design and construction; and,

WHEREAS, to meet the needs of the Development certain Well Facilities and Well Transmission Facilities, with the final location to be mutually agreed upon, must be constructed; and,

WHEREAS, Utility is willing to have Developer design and construct the Well Facilities and Well Transmission Facilities, subject to Utility's written approval of the design and construction; and,

WHEREAS, Utility is willing to have Developer and/or Verrado design and construct the Off-site Facilities described in Exhibit "C" to meet the water service needs of the Development; and

WHEREAS, Developer is willing, either jointly with neighboring Verrado, or as described in Exhibit "C", to construct the Off-site Facilities, and have Utility design and construct the required Common Facilities; and,

Initial Km

WHEREAS, Developer is willing to contribute a portion of the cost of improvements to Verrado Reservoir (the "Common Facilities") as described in Paragraph VIII.3. of this Agreement and Exhibit "E"; and

WHEREAS, Utility and Developer must obtain certain regulatory approvals before water facilities can be constructed and water service provided to the Development.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties hereby agree as follows:

**I. Definitions**

1. For the purpose of this Agreement, unless context requires otherwise, these terms shall be defined as follows:

- (a) "Agreement" means this Agreement, including all exhibits, amendments, and addenda.
- (b) "Ak-Chin" means the Ak-Chin Indian Community.
- (c) "Ak-Chin Water" means the surface water to which Ak-Chin presently holds rights, of which the Tesota Hills Ak-Chin Water Contribution is a potential portion of such surface water leased to Webb under the Water Lease to be delivered to Utility under the conditions in this Agreement.
- (d) "Common Facilities" means modifications to the Verrado Reservoir by Utility to serve the Development as outlined in Exhibit "E", and as further described in Paragraph VIII.3. of this Agreement.
- (e) "Developer" means Pulte Home Corporation, a Michigan corporation qualified to do business in Arizona, its successors and assigns.
- (f) "Development" means a 444-acre parcel with up to 1070 single family homes, known as Tesota Hills, located in the Town of Buckeye as described in Exhibit "A".
- (g) "Distribution Facilities" means water related facilities to be designed, constructed or installed by Developer for the purpose of providing water service to individual lots, housing and/or commercial units within the Development as set forth in Exhibit "B" attached hereto and incorporated herein by reference.
- (h) "Equivalent Residential Unit" (ERU) means a single-family residential dwelling located within the Development or, in the case of commercial or multi-family customers (excluding right-of-way irrigation) within Development, its equivalent based on the manufacturer's rated capacity of the meter.

(i) "Final Acceptance" means Utility's written Final Acceptance of the Distribution Facilities, to be issued after Operational Acceptance, and full completion of such facilities, and after Developer has provided all required submittals pursuant to Paragraph IV.13 and all fees as set forth in Paragraph IV.7, VIII.2 and VIII.3 of this Agreement.

(j) "Master Plan" means the approved water master plan report submitted to Utility by Developer's engineer or DMB White Tank, LLC's engineer for Verrado, showing sizes and approximate locations of Distribution Facilities and Off-site Facilities to be constructed to allow Utility to provide water service to the Development as set forth herein.

(k) "Off-site Facilities" means any storage, pumping, treatment, or related facilities and appurtenances designed, constructed, installed, or modified to serve the Development by Developer (alone or jointly with neighboring Verrado) as more fully described in Exhibit "C".

(l) "Operational Acceptance" means Utility's written Operational Acceptance of the Distribution Facilities, subject to further inspection by Utility and correction of any outstanding punch-list items by Developer.

(m) "Phase" shall mean a specified portion of the Development that is intended to be constructed and developed independently from other portions of the Development as identified in Exhibit "D", but not to be less than 100 homes. Notwithstanding the foregoing, two custom lot areas may be developed in phases with less than 100 lots. The initial phase of the development shall not be greater than the capacity of the Well Facilities divided by 0.6.

(n) "Tesota Hills Ak-Chin Water Contribution" means the amount of Ak-Chin Water calculated pursuant to Paragraph VII.2. of this Agreement.

(o) "Utility" means Arizona-American Water Company, an Arizona corporation, its successors and assigns.

(p) "Water Facilities Hook-up Fee" means the hook-up fee described in Utility's as then current tariff to compensate it for the construction of off-site facilities.

(q) "Water Lease" means the [Restated] Option and Lease Agreement among Ak-Chin, the United States of America, and Webb executed in May and June 2001, and by its terms effective on or about June 27, 2001 as identified in Exhibit "F".

(r) "Water Lease Charges" has the meaning set forth in the Water Lease.

(s) "Water Trunk Pipeline" means that portion of the Agua Fria Water Trunk Pipeline construction plans as prepared by Brown and Caldwell project number 23451, and further approved by Maricopa County Environmental Services Department project number 03589.



(t) "Water Use Charges" has the meaning set forth in the Water Lease.

(u) "Webb" means Del Webb Corporation, a Delaware corporation.

(v) "Well Facilities" means one well, the Well Site, and all well-related piping, equipment, walls, gates, treatment facilities, and appurtenances or related facilities designed, constructed, installed, or modified by Developer in connection with the well to provide water service to the Development as further described in Article IV of this Agreement.

(w) "Well Site" means any one site selected by Developer of those sites identified for the initial well or subsequent wells in Exhibits G-2 and G-3, attached to that June 30, 2004 Joint Development Agreement among Stardust Development, Inc., Citrus & Northern LLC, and Cortessa L.L.C., and their successors and assigns, or any other site not yet identified within either the Cortessa or White Tank Foothills subdivisions. Utility makes no warranty or representation of viability of the Well Site to be of a suitable size or location to meet the needs of the Development;

(x) "Well Transmission Facilities" means the additional water lines and related appurtenances to be designed, constructed or installed by Developer to transport groundwater from the Well Facilities to the Water Trunk Pipeline. The Well Transmission Facilities will be connected to Utility's system at the most cost effective connection point at either the Cortessa transmission line in Olive Avenue, or at Utility's trunk line in Citrus Road. If the Cortessa transmission line is chosen, Developer is required to perform a hydraulic analysis of the transmission line to ensure the transmission line has sufficient capacity. Said analysis will include and define any and all impacts to other wells connected to the transmission line. Said analysis shall be submitted to Utility for its review and approval. Results of the hydraulic analysis of the transmission line shall show no adverse impact to the production capacity of the existing well, Arizona Department of Water Resources (ADWR) registration number 55-205432 (the Cortessa well).

## **II. Authorizations**

1. Utility shall on a timely basis take all reasonable steps necessary and use its reasonable best efforts to obtain and renew any authorizations to provide Utility water services to the Development which may be required by law or regulation. These authorizations include but are not limited to certificates of convenience and necessity, operating agreements, franchises, permits and similar authorizations obtained from regulatory agencies and other governmental agencies.

2. Developer shall obtain an Arizona Department of Environmental Quality (ADEQ) Certificate of Approval to Construct and Approval of Construction and all required zoning clearances, construction permits and similar authorizations from regulatory agencies and other governmental agencies for all facilities to be constructed by Developer hereunder.

3. Utility shall apply for approval of this Agreement with the Commission concurrently with the submission of the Utility's application to extend its Certificate of Convenience and Necessity to include the Development. Notwithstanding Utility's obligations in this Paragraph and in Paragraph II.1 above, Developer may, at Developer's expense, hire an attorney and/or consultant acceptable to both Utility and Developer to prepare Utility's application to extend its Certificate of Convenience and Necessity, and Utility's application to seek expedited approval of this Agreement. If Developer's attorney and/or consultant prepare one or both applications, Developer shall submit such applications to Utility for review and approval prior to filing them with the Arizona Corporation Commission. Utility shall promptly review and approve the applications, and shall cooperate with Developer and the Arizona Corporation Commission to achieve expedited approvals.

4. Utility's obligations hereunder are contingent upon its ability to obtain any material and significant authorizations more fully described in Paragraphs II.1 and II.3, above. Utility will not be liable to Developer or its contractors and subcontractors for damages if Developer begins construction or authorizes the start of construction before Developer and Utility have obtained the authorizations required hereunder.

### **III. Master Plan**

1. The intent of this Agreement is that Developer shall construct or cause to be constructed for the future use of Utility, in accordance with provisions of this Agreement, all Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities as shown on the Master Plan, required for Utility to provide public utility water services to the Development.

2. Developer has caused a Master Plan to be prepared for the Development which shows locations and sizing of all Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities required to provide public utility water service to the Development. The Master Plan, and any subsequent amendments by Phase, must be approved in writing by Utility. Once the Master Plan and any amendments are approved by Utility, they will be incorporated herein and made a part of this Agreement as if set out in full herein.

**IV. Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities**

1. Developer shall design, construct and install, or cause to be designed, constructed or installed, the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities necessary to provide adequate water service to each Phase as detailed in the Master Plan prepared by the Developer's engineer and approved by Utility. Developer's estimated schedules of materials, unit quantities, and costs are set forth in Exhibits "B" and "C". Developer shall pay all of the costs of constructing, installing, and connecting the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities, including, but not limited to, the costs of engineering, materials, labor, transportation, equipment, necessary permits and approvals, easements, testing, corrections, insurance and bonds. Developer's costs for the construction and installation of the Distribution Facilities shall be considered advances in aid of construction and are subject to refund in accordance with Paragraph V.1. of this Agreement. Developer's costs for the construction and installation of the Well Facilities, Well Transmission Facilities, and Off-site Facilities shall be considered contributions in aid of construction and are not subject to refund by Utility.

2. Developer will time completion of the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities will be timed so as to enable Utility to provide water service to each Phase as such service is requested.

3. Utility hereby authorizes Developer to drill and place the Well Facilities in the Well Site. Utility and Developer will cooperate, and will take all actions necessary to secure a permanent right to construct and place the well at the Well Site, including securing an easement in favor of Utility, and assisting Developer to access the Well Site to begin constructing the Well Facilities by March 31, 2006. Developer shall convey, or cause to be conveyed, by warranty deed to Utility free and clear title to the Well Site with adequate legal access from a public roadway. The dimensions of said Well Site shall be approximately 125 feet by 125 feet, with the exact dimensions and location to be determined by the Developer's registered Engineer or Hydrogeologist and mutually agreed upon, in writing, by Developer and Utility. Prior to deeding the Well Site to Utility, if applicable, Developer will provide a Phase I Environmental Investigation, A.L.T.A. survey, and soil reports for the Well Site to Utility for approval. Existing Phase I Environmental Investigations and soil reports and a recorded plat identifying the Well Site, if acceptable to Utility, may be provided in lieu of new reports. The production generated from the Well Site will be reserved for the Tesota Hills project. Any additional production from the Well Site prior to the completion of the CAP Surface Water Treatment facility, , shall be reserved for Phase 1 of the White Tank Foothills project.

4. Developer shall design, construct and install, or cause to be designed, constructed or installed, the Well Facilities at the Well Site. Utility makes no warranty, expressed, implied or otherwise as to the suitability of the Well Site for a potable production well and/or the possible required treatment facilities. Developer assumes the risk that the Well Site will not be suitable for Developer's purposes.

(a) The Well Facilities shall be designed to provide a minimum sustained pumping capacity of 770 gallons per minute (gpm) of potable water that meets primary drinking water quality standards in effect through February 2006 as required under the Safe Drinking Water Act and by the Arizona Department of Environmental Quality (ADEQ) including meeting the arsenic requirements of 8 ppb which includes a 20% factor of safety over the ADEQ standard. The minimum sustained pumping capacity of the Well Facilities shall be determined based on the results of a 10-hour step-rate aquifer test and a 24-hour constant rate aquifer test. However, if these test durations do not yield results showing drawdown stabilization of the water table, the pump test shall be extended to a minimum 24-hour step-rate aquifer test and a minimum 72-hour constant rate aquifer test or to a duration which depicts conclusive results of the long term performance of the Well Facilities.

(b) If the minimum sustained pumping capacity of the Well Facilities is less than 770 gpm, Utility shall not reject the Well Facilities on that basis. However, in recognition of Utility's desire to reduce the use of groundwater in the future, if the minimum sustained pumping capacity of the Well Facilities is less than 770 gpm, then Developer will cause the assignment to Utility of the Tesota Hills Ak-Chin Water Contribution pursuant to the terms in Article VII.

(c) If the Well Facilities are determined to have an impact on Utility's existing wells in accordance with ADWR's rules and regulations, Utility agrees to provide a waiver of impacts to ADWR, provided that the well impact study approved by ADWR demonstrates that the Well Facilities do not cause an additional drawdown in Utility's existing well(s) in excess of 20 feet after the first 5 years of operation. Any net loss of production capacity in Utility's existing well(s) caused by the Well Facilities shall be subtracted from the minimum sustained pumping capacity of the Well Facilities for the purpose of calculating the Tesota Hills Ak-Chin Water Contribution pursuant to Paragraph VII.2. below.

5. If the addition of groundwater from the Well Facilities to Utility's existing system requires the construction of additional treatment facilities to meet the February 2006 primary water quality standards required under the Safe Drinking Water Act including the arsenic requirement of 8 ppb as defined in this article, then

Developer will construct on the Well Site, or other location acceptable to Utility, the groundwater treatment facilities necessary to treat groundwater withdrawn from the Well Facilities so that the groundwater meets the February 2006 primary water quality standards required under the Safe Drinking Water Act including the arsenic requirement of eight ppb as defined in this article.

6. If requested by Utility, Developer shall "oversize" the Distribution Facilities, Well Facilities, or Well Transmission Facilities as specified by Utility. For each such request, in addition to the procedures required under paragraph IV.8, Developer shall obtain, and submit to Utility for review, two bids from Developer's contractor, one for the non-oversized facilities, and one for the oversized facilities. Upon Utility's approval of the bids, which shall not be unreasonably withheld, Utility shall reimburse Developer for the amount by which the bid for the cost of the oversized facilities exceeds the bid for the cost of the non-oversized facilities. Payment for oversizing will be made by Utility to Developer within 30 days of written notice to Utility after Utility's Final Acceptance of said Distribution Facilities, Well Facilities, or Well Transmission Facilities.

7. Prior to Final Acceptance of each Phase of the Distribution Facilities, or upon requesting water service to any Phase of the Distribution Facilities, whichever is first, Developer shall submit a cash payment as specified by Utility's then current service and meter installation tariff for each water meter to be set in said Phase, as an advance in aid of construction, refundable pursuant to Article V herein, for meter installations by Utility. Water meters will then be installed and service initiated by Utility upon Developer's request. In addition to the meter installation tariff charges specified, Developer will pay or cause to be paid as a contribution in aid of construction, at the time specified in Utilities' tariffs, the following hook-up fees:

(a) Central Arizona Project Hook-up Fee as specified by Utility's then current Central Arizona Project Hook-up Fee Tariff;

(b) Water Facilities Hook-Up Fee as specified by Utility's then current Water Facilities Hook-Up Fee Tariff, but only to the extent the total Water Facilities Hook-Up Fees for the Development exceed the total payments for the Common Facilities contributed by Developer pursuant to Paragraph VIII.3 herein;

(c) Any other tariff fee approved by the Arizona Corporation Commission that may be in effect at the time of Operational Acceptance of said phase of the Distribution Facilities.

8. Developer shall obtain, at its cost, all permits, zoning, easements and other approvals in advance of design and construction of any of the Distribution Facilities, Well Facilities, Well Transmission Facilities, or Off-site

Facilities. All plans, specifications, construction and installation of the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities shall be in accordance with good Utility practices, the rules, regulations and requirements of the Arizona Department of Environmental Quality, Utility's specifications and details, and the requirements of all other governmental agencies having jurisdiction thereover. Additionally, construction will not commence until all of said plans and specifications have been approved in writing by Utility. Approval by Utility shall not be unreasonably withheld or delayed. Developer will submit said plans and specifications to Utility for review and approval, as well as preliminary plats, final plats, address maps and other items reasonably requested by Utility. Unless otherwise agreed, if Developer begins construction of any facilities before all required approvals have been obtained, such construction will be at Developer's sole risk and subject to repair, alteration or reconstruction at Developer's expense as directed by Utility or any regulatory agency. Utility reserves the right to deem plan approval null and void if Developer does not begin construction within one year from the date of the initial plan approval. If Developer has not started construction within one year from the date of the initial plan approval and Utility deems the plan approval null and void, Developer must resubmit plans and specifications for Utility's written approval.

9. Developer shall comply with the inspection and testing requirements of Utility for the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities. For each Phase, Developer shall give Utility adequate notice when any of the Distribution Facilities, Well Facilities, Well Transmission Facilities, or Off-site Facilities under construction are ready for inspection and testing, and Utility shall inspect the same promptly after being so notified. No facility will be placed in service until inspected by Utility, ADEQ has issued its Approval of Construction, and Utility has issued its Operational Acceptance. Utility specifically reserves the right to withhold Operational Acceptance of any of the Distribution Facilities, Well Facilities, Well Transmission Facilities or Off-site Facilities unless said facilities have been constructed in accordance with the approved plans and specifications and are reasonably satisfactory to Utility upon inspection and testing. For each Phase, Developer shall promptly correct all defects and deficiencies in construction, materials and workmanship upon request by Utility made subsequent to inspection by Utility and for one year following Utility's written Final Acceptance of the last Distribution Facilities, Well Facilities, Well Transmission Facilities, or Off-site Facilities associated with the Phase, in accordance with the terms of this Agreement. Inspection and/or acceptance by Utility will in no way relieve or limit Developer's responsibility and liability for construction and installation of the facilities in accordance with the terms of this Agreement or for approval of fire protection requirements set forth by the jurisdictional fire agency.

10. Any of the Distribution Facilities, Well Facilities, Well Transmission Facilities, or Off-site Facilities constructed pursuant to this Agreement shall become, upon Operational Acceptance, and remain the sole property of Utility without the requirement of any written document of transfer to Utility. However, Developer shall furnish any document pertaining to ownership and title as may be requested by Utility, including documents which evidence or confirm transfer of possession to Utility, and good and merchantable title free and clear of liens, or which contain provisions for satisfaction of liens by Developer. All risk of loss of Distribution Facilities, Well Facilities, Well Transmission Facilities and Off-site Facilities shall be with Developer until written Operational Acceptance by Utility of the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities or any portions thereof. Developer shall repair or cause to be repaired promptly, and at no cost to Utility, all damage to the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities caused by construction operations until all construction within the specific phase of Development by or for Developer has been completed and accepted by Utility. Developer acknowledges that Utility has the right to, and may in the future, connect its existing or future water systems to the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities.

11. If all or any portion of Developer's advances in aid of construction, whether already paid or to be paid, will constitute taxable income to Utility, Developer will advance funds to Utility in the amount required to gross-up the advance, so that Utility's after-tax benefit will equal what it would be if no taxes were owed.

(a) For advances already made, Developer will remit the required funds to Utility within 30 days after Utility notifies Developer that the advances will likely constitute taxable income.

(b) Utility will notify Developer when Utility determines that future advances will likely constitute taxable income.

(c) Utility's notice will include documentation reasonably necessary to substantiate its liability for income taxes, such as a determination or notification by a governmental authority, amendment to the Internal Revenue Code, a regulation promulgated by the Internal Revenue Service, or similar change to any statute, rule or regulation relating to this matter.

(d) If additional funds are paid by Developer under this Paragraph IV.11, these funds will also constitute advances in aid of construction and are refundable in accordance with Article V.

(e) Developer also indemnifies and holds Utility harmless for, from and against any tax-related interest, fines and penalties assessed against Utility and other costs and expenses incurred by Utility as a consequence of Developer's late payment of the amounts described in this Paragraph.

(f) The gross-up amount to be paid pursuant to this Paragraph will be calculated as follows:

$$G = A \times R / (1 - R)$$

Where: G = Gross-up amount;

A = Amount of Developer's advances subject to tax; and

R = Percentage tax rate divided by 100.

12. Developer shall, at no cost to Utility, and before commencement of construction, grant or cause to be granted to Utility, perpetual non-exclusive rights-of-way and easements and obtain all necessary zoning and other governmental approvals as required, in a form reasonably satisfactory to Utility's counsel, for any Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities constructed pursuant to this Agreement.

13. Developer shall, within 45 days of Operational Acceptance of each Phase of the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities by Utility, furnish Utility with: (a) copies of all contracts and paid bills, invoices and other statements of expenses incurred by Developer, covering all of the costs of materials, equipment, supplies, construction and installation of the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities, (b) lien waivers and releases from contractors, subcontractors and vendors for materials, equipment, supplies and construction included in the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities, (c) receipts, specifying exact amount of payments in full by Developer to all contractors, subcontractors and vendors for all materials, equipment, supplies, labor and other costs of construction of the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities, (d) "as-built" drawings on 4-mil Mylar, certified as to correctness by an engineer registered in the State of Arizona and showing the locations, materials, and respective sizes, and pertinent construction details for all Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities, and (e) CAD files, in electronic format acceptable to Utility, of the construction drawings and final plat in accordance with Utility's specifications.

#### V. Refunds

1. Refunds of advances in aid of construction will be made in accordance with this paragraph.



a). Refund year one will begin on the fourth July 1 after the date of Operational Acceptance of any Phase of the Distribution Facilities and will end on the next June 30. Refund years two through ten will follow each July 1 after refund year one.

b). For each refund year, refunds will be made based on the cumulative, applicable, advances in aid of construction as of the first day of the refund year. Each refund year, Utility will refund ten percent of Utility's total water revenues from customers in the Development (excluding all gross receipts taxes or sales taxes, and all District, Municipal, County, State or Federally imposed regulatory assessments). For each refund year, Utility will pay a refund to Developer by August 31 (following the June 30 end of a refund year). Refunds will be paid for each of the refund years in which Utility receives revenue, but the total refunds to be paid for Distribution Facilities cannot exceed the total amounts paid by Developer as advances in aid of construction in the Development. Any balance remaining at the end of the ten-year period is nonrefundable. No interest will be paid on any amount of the advances in aid of construction.

**VI. Extinguishment of Irrigation Grandfathered Rights and Type I Non-Irrigation Grandfathered Rights**

1. If Irrigation Grandfathered Rights or Type I Non-Irrigation Grandfathered Rights are associated with the Development, Developer shall, within 30 days of plat recordation or prior to execution of a Membership Agreement with the Central Arizona Groundwater Replenishment District, whichever occurs first, submit to the Director of the ADWR, a notarized Statement of the Intent to Extinguish the Grandfathered Rights, including the Certificate of the Grandfathered Right that is to be extinguished. If the Grandfathered Right is a Type I right, proof of ownership of the land shall be submitted with the statement of intent. Any forms required to be submitted by ADWR shall also be included with the Statement of Intent.

2. The Statement of the Intent to Extinguish the Grandfathered rights shall include the statement "It is requested that the Director of the Department of Water Resources make the extinguishment credits available for later use by Arizona-American Water Company's Agua Fria District, or its successors in interest and assigns, in its application for a designation of assured water supply for the Agua Fria District service area." Granting of the credits to Arizona-American Water Company shall also be indicated as appropriate on the extinguishment forms submitted with the statement.

3. A copy of the Statement of the Intent to Extinguish Grandfathered Rights with all enclosures shall be mailed to Utility at the address described in Paragraph VIII.11.

**VII. AK-Chin Water**

1. Groundwater will be the source of water used to supply the Development with a 100-year assured water supply. As of the date of this Agreement, Utility has not been designated as having an assured water supply pursuant to A.R.S. § 45-576(D). Until such time as Utility has been so designated, if ever, Developer must seek and obtain Certificates of Assured Water Supply in accordance with A.R.S. § 45-576(A) as a prerequisite for subdividing the Development. Utility will take all reasonable steps to assist Developer in connection with applications by Developer for assured water supply including, but not limited to, (a) executing Notices of Intent to Serve required by the Arizona Department of Water Resources and (b) entering into such contracts and recording such declarations as may reasonably be required by the Central Arizona Groundwater Replenishment District pursuant to A.R.S. §§ 48-3774(C) and 48-3772(B)(4), which are required in order for the Development to qualify as a "member land" under § 48-3774.

2. If Developer's Well Facilities fail to meet the minimum pump test requirements in Paragraph IV.4. of this Agreement, then Developer will assign to Utility an amount of Ak-Chin Water (the "Tesota Hills Ak-Chin Water Contribution") for use in the Development in the following amount:

**Tesota Hills Ak-Chin Water Contribution (acre-feet per year) =**

$$= \frac{690 \text{ acre} - \text{feet}}{\text{year}} \cdot \left[ WF \times \frac{1080 \text{ min}}{\text{day}} \times \frac{365 \text{ day}}{\text{year}} \times \frac{1 \text{ acre} - \text{foot}}{325,851 \text{ gal}} \right]$$

where WF = minimum sustained pumping capacity of Well Facilities (gpm). For example, if the minimum sustained pumping capacity of the Well Facilities is 400 gpm, then the Tesota Hills Ak-Chin Water Contribution is 206 acre-feet per year. For the purposes of this Paragraph, the minimum sustained pumping capacity of the Well Facilities shall be determined based on the results of a typical 10-hour step-rate aquifer test and a 24-hour constant rate aquifer test. However, if these test durations do not yield results showing drawdown stabilization of the water table, the pump test shall be extended to a minimum 24-hour step-rate aquifer test and a minimum 72-hour constant rate aquifer test or to a duration which depicts conclusive results of the long term performance of the Well Facilities. If Developer's Well Facilities meet the minimum pump test requirements in Paragraph IV.4, then the Tesota Hills Ak-Chin Water Contribution is zero.

3. Water Lease. The Tesota Hills Ak-Chin Water Contribution is an additional source of water that Developer will cause to be assigned to Utility under the conditions stated in this Article and that will enable Utility,

in part, to provide future water service to the Development. Webb, a wholly-owned subsidiary of Developer, has obtained the Ak-Chin Water under the Water Lease. A copy of the Water Lease is attached as Exhibit "F".

Paragraph 10 in the Water Lease allows Developer to assign its rights and obligations under the Water Lease, in whole or in part, with the approval of the Ak-Chin Indian Community and the Secretary of Interior. Except as otherwise required in this Article, and except as required in the Agreement for Anthem Water/Wastewater Infrastructure dated as of September 29, 1997, as amended, Utility shall not be obligated to pay Developer any amount for assignment of the Tesota Hills Ak-Chin Water Contribution.

4. Water Quality. The Tesota Hills Ak-Chin Water Contribution will be assigned to Utility "as is" without warranty as to the quality thereof, including warranties of merchantability and fitness for a particular purpose. Developer does not warrant the quality of Tesota Hills Ak-Chin Water Contribution. Developer shall have no obligation to construct or furnish water treatment facilities or to take any other action to maintain or better the quality of the Tesota Hills Ak-Chin Water Contribution assigned to Utility pursuant to this Article.

5. Assignment. No later than the date of initiation of the assignment by Webb under Section 4.8 of the Agreement for Anthem Water/Wastewater Infrastructure dated as of September 29, 1997, as amended, among Webb, Anthem Arizona, L.L.C., and Utility's predecessors in interest, Developer will cause Webb to, initiate and diligently prosecute the assignment to Utility of the right to receive an amount of Ak-Chin Water equal to the Tesota Hills Ak-Chin Water Contribution per annum under the Water Lease. The Water Lease provides that such an assignment must be approved by Ak-Chin and the Secretary of the Interior. If either Ak-Chin or the Secretary refuses to approve the assignment, Developer will be relieved of the obligation to cause the assignment of the right to receive the Tesota Hill Ak-Chin Water Contribution under the Water Lease to Utility. Utility will bear all out-of-pocket costs paid by Developer or Webb to third parties in securing all approvals required in order to complete the assignment (such as application and permit fees, but excluding any general and administrative expenses or internal costs incurred by Developer or Webb in attending to the assignment). Each party will bear its own internal costs of litigation, in either administrative or judicial forums, in connection with securing the approval of the assignment. Neither Developer nor Webb will have any obligation to commence such litigation. If Ak-Chin, the Secretary of the Interior or any other party commences litigation against Webb regarding the assignment, Developer will promptly notify Utility in writing. Within ten days after receipt of that notice, Utility will notify Developer in writing of whether Utility intends to assume the defense of the litigation. If Utility assumes that defense, Utility will have the right to conduct any proceedings or negotiations in connection with the

litigation, including defense or settlement of any claims and employment of counsel. Regardless of whether Utility assumes the defense of such litigation against Webb regarding the assignment, Utility will indemnify Developer and Webb against all claims, damages, costs and expenses (including reasonable attorney's fees and court costs) related to such litigation. Utility will not settle any claims against Webb without Developer's and Webb's written consent, which will not be unreasonably withheld.

6. Sale of Water if Assignment Not Approved. If either Ak-Chin or the Secretary refuses to approve the assignment within one year of the date application is made to the Ak-Chin and the Secretary, then Developer will continue to sell the Tesota Hills Ak-Chin Water Contribution to Utility as follows:

- (a) The amount of Ak-Chin Water to be sold by Developer to Utility each year will be the amount of water set forth in the water delivery schedule submitted by Utility, not to exceed the Tesota Hills Ak-Chin Water Contribution.
- (b) On or before September 1 of each year, Utility will submit to Developer a written water delivery schedule setting forth the amount of Ak-Chin Water Utility wishes to purchase during each month of the following year. The schedule will identify one or more turnout locations for which the Bureau has already conducted an environmental review as required in the Water Lease, and be accompanied by a preliminary estimate of the amount of Ak-Chin Water required for the succeeding two years. If Utility does not submit a water delivery schedule as required by this Paragraph, Utility will be deemed to have elected to purchase the full Tesota Ak-Chin Water Contribution amount for the following year (with one-twelfth of that amount being purchased each month).
- (c) The Ak-Chin Water will be delivered to Utility "as is" without warranty as to the quality thereof, including warranties of merchantability and fitness for a particular purpose.
- (d) Upon delivery of the Ak-Chin water to Utility at the designated turnout, Utility will own sole right, title and interest in and to such water.
- (e) Utility will pay to Developer the Ak-Chin Water Use Charges as defined in Paragraph 5(B)(1)-(4) in the Water Lease for any Ak-Chin Water to be delivered to Utility pursuant to the water delivery schedule. The payment will be due and payable 15 days before Webb's payment to the Ak-Chin is due and payable pursuant to the terms of the Water Lease.

- (f) Developer will have the right, but will not be obligated, to, at Developer's expense, order and use any Ak-Chin Water not scheduled for delivery by Utility in its water delivery schedule submitted to Developer on or before September 1 each year, or Ak-Chin Water scheduled for delivery, but for which Utility has failed to pay the applicable Water Use Charges.

7. Termination. Developer's obligations in Paragraphs VII.2, VII.3, and VII.5 will automatically terminate on the occurrence of the earlier of:

(a) The assignment by Webb to Utility of the right to lease the Tesota Hills Ak-Chin Water Contribution per annum under the Water Lease in accordance with Paragraph VII.5;

(b) A condemnation, or conveyance in lieu of condemnation, of all or substantially all of the Distribution Facilities; or

(c) The expiration or termination of the Water Lease. Developer shall have no obligation to extend the term of the Water Lease.

#### **VIII. General Provisions**

1. For each Phase, Utility shall, upon Operational Acceptance of the Distribution Facilities, Well Facilities, Well Transmission Facilities, and Off-site Facilities, and payment of all fees required hereunder or by the terms of the then current and applicable tariffs of Utility, provide water service to the Development in accordance with the rates, charges and conditions set forth in the tariffs of Utility as filed with the Commission. Those rates, charges and tariffs are subject to change from time to time upon approval by the Commission. Utility has no obligation to provide water service to the Development until all fees have been paid as provided in this Article.

2. Upon execution of this Agreement, Developer will pay to Utility a plan-review fee equal to 4.84% of the total costs set forth on Exhibits "B" and "C" to compensate Utility for the cost of its coordination, reviews, inspections, testing, and approvals (including all related overhead costs) incurred by Utility under this Agreement. The 4.84% plan-review fee is deemed the final and reconciled costs for these services provided by Utility. Utility will credit toward the plan-review fee any previously paid deposits concerning the Distribution Facilities, Well Facilities, Well Transmission Facilities and Off-site Facilities. The plan-review fee attributable to the Distribution Facilities is an advance in aid of construction and subject to refund in accordance with Paragraph V.1. The plan-review fee attributable to the Well Facilities, Well Transmission Facilities and Off-site Facilities is a contribution in aid of construction and not subject to refund in accordance with Paragraph V.1.

3. Within 30 days after Utility's award of a contract for construction of the Common Facilities, or such other date as may be agreed upon in writing by Utility and Developer, Developer shall pay to Utility Developer's portion of the Common Facilities costs for the design, construction, installation, and modifications to the Verrado Reservoir described in detail in Exhibit "E", attached hereto, and incorporated herein by reference. These costs shall include, but may not be limited to, the costs of engineering, materials, labor, transportation, equipment, necessary permits and approvals, easements, testing, corrections, insurance and bonds. Common Facilities fees contributed by Developer will be credited to Developer and are subject to offset against Water Facilities Hook-up Fees to be paid pursuant to this Article. In the event the Utility's actual cost of construction is less than the amount advanced by the Developer, the Utility shall refund the excess funds to the Developer within thirty (30) days after the completion of the construction and/or after the receipt of all invoices for the construction. In the event the Utility's actual cost of construction is greater than the amount advanced by the Developer, the Utility shall invoice the Developer for the balance of the Developer's portion of the cost of the Verrado Reservoir. The Developer shall within thirty (30) days after the receipt of the invoice submit payment to the Utility. Utility shall use its reasonable best efforts to ensure that the completion of the off-site facilities and Common Facilities will be timed so as to enable Utility to provide water service to the Development as such service is requested.

4. Water for construction within the Development shall be made available only in quantities which are in excess of quantities required for service to other customers connected to Utility's existing system. All water is expected to be metered, but if Developer requests to use unmetered water and if approved by Utility, water used for construction of water and wastewater facilities may be unmetered, in which case Utility will estimate, in accordance with Utility's standard procedures, the amount of unmetered water used and charge Developer for the water. Estimated and metered water used for the construction of water and sewer facilities or other facilities within the Development shall be billed by the Utility to Developer at the Utility's then current tariff rate. Utility reserves the right to estimate and bill Developer for all unauthorized unmetered water use for the Development. Utility may terminate this Agreement and water service if unauthorized unmetered water use is continued after Developer receives a notice to cease the use of unauthorized unmetered water. Utility agrees to, and, if requested, will provide, at no cost to Developer or Utility, any required authorizations for, Developer's delivery and use of Developer's own Ak-Chin Water for construction purposes within Development.

5. Utility shall use its reasonable best efforts to maintain satisfactory and continuous service, but does not guarantee a continuous supply of water service. Utility shall not be liable for damages occasioned by interruptions or failure to commence service or unsatisfactory service or any act or failure to act arising out of this Agreement caused by an act of God or the public enemy, accident, fire, explosions, strikes, riots, war, delay in receiving shipments of required material, order of any court or judge granted in any bona fide adverse legal proceedings or action, or any order of any commission or tribunal having jurisdiction in the premises; or without limitation by the preceding enumeration, any other act or thing reasonably beyond its control or incident to interruptions necessary for repairs or changes in Utility's production, storage, transmission, and distribution facilities.

6. Utility makes no assignment, representation or adequacy of the water utility services it provides for fire protection to the Development in accordance with any requirements of any governmental agency or of any County and any private fire and emergency service providers. The Utility will supply only such water at such pressures as may be available as a result of the normal operation of its system, at an amount not less than 20 psi pursuant to A.A.C. R14-2-407.E. and the Utility shall not be liable for injuries or damage resulting from causes beyond the Utility's control.

7. Developer must abandon all wells within the Development that are not owned or to be owned by Utility in accordance with A.A.C. R-12-15-816, the Arizona Department of Water Resources and Utility's rules, standards and specifications for well abandonment. Operational Acceptance of the Distribution Facilities will not be granted prior to the abandonment of all wells identified by Utility and Utility's written approval of all well abandonments.

8. Prior to the commencement of construction of any of the Distribution Facilities, Well Facilities, Well Transmission Facilities, or Off-site Facilities associated with a Phase, Developer shall furnish Utility with appropriate certificates of insurance coverage effective during the period of construction in the following types and amounts:

a) Worker's Compensation Insurance and Occupational Disease Disability Insurance in the benefit amounts required by the laws and regulations of the State of Arizona.

b) Commercial General Liability Insurance, including operations and protective liability coverage, with limits of not less than \$2,000,000 combined single limit for bodily injury (including death) and property damage. When the work to be performed requires blasting, Developer's insurance shall specifically cover that risk. **Utility shall be named as an additional insured.**

c) Comprehensive Automobile Liability Insurance with limits of \$100,000/\$300,000 covering all owned and non-owned automobiles or trucks used by or on behalf of Developer in connection with the work.

9. Developer will indemnify and hold Utility, its officers, directors, agents, and employees harmless from and against any and all claims, damages, costs and expenses, including penalties and assessments, attorneys' fees and court costs, to which they or any of them may be subjected by reason of injury, death, loss, claim, penalty, assessment or damage caused or contributed to by the active or passive negligence of Developer, its agents, servants, employees, contractors or subcontractors in the execution of the work or in connection therewith; and in case any suit or other proceeding shall be brought on account thereof, Developer will assume the defense at Developer's expense and will pay all judgments rendered therein. The foregoing indemnity does not cover any negligent or wrongful acts of Utility, its officers, directors, agents or employees.

10. The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision but the same shall, nevertheless, be and remain in full force and effect.

11. Communications hereunder shall be sent to Developer addressed as follows:

Pulte Home Corporation  
Attn: Mike Brilz, V.P. Planning & Development  
15111 N. Pima Rd., Suite 100  
Scottsdale, Arizona 85260

or to such other address or addresses as Developer may advise Utility in writing, and to Utility at:

Arizona-American Water Company  
Attn: Director, Engineering  
19820 N. 7<sup>th</sup> Street, Suite 201  
Phoenix, Arizona 85024

or to such other address or addresses as Utility may advise Developer and Webb in writing.

12. Utility is not an agent for Developer and shall not incur any costs or expenses on behalf of Developer and Developer is not an agent for Utility and shall not incur any costs or expenses on behalf of Utility.

13. This Agreement shall be governed by the laws of the State of Arizona, and its performance shall be subject to such approvals of all regulatory agencies with jurisdiction.

14. This Agreement represents the entire understanding between the parties with respect to the subject matter herein and those which are reasonably related; there are no oral or collateral agreements with respect thereto between the parties. All changes or amendments to this Agreement must be in writing and signed by the parties hereto.



15. This Agreement is the product of negotiations between the Parties and no Party is deemed its drafter. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective legal representatives, successors and assigns. However, Developer shall not assign its rights, obligations and interest in this Agreement without the prior written consent of Utility, and any attempted assignment without such consent shall be void and of no effect. If the Distribution Facilities for the Development will be designed or constructed in two or more Phases, this Agreement applies to all such Phases.

16. Utility reserves the right to deem this Agreement null and void if Developer does not begin construction within one year from the date of this Agreement. If Developer has not started construction within one year from the date of this Agreement, Developer may issue a written request to Utility for an extension of this Agreement. Utility's response to said request for extension will not be unreasonably delayed. If Utility deems the Agreement null and void, Utility will send written notice of cancellation of Agreement to Developer via certified mail to the address shown in Paragraph VIII.11.

17. Developer estimates a construction start date of July 1, 2006 and a construction completion date of December 31, 2013.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate originals, as of the day and year first above written.

Arizona-American Water Company,  
an Arizona corporation

By: \_\_\_\_\_

Robert J. Kuta  
President

Pulte Home Corporation,  
a Michigan corporation

By: \_\_\_\_\_

Mike Brilz  
V.P. Planning & Development/  
Attorney in Fact

STATE OF ARIZONA     )  
                                      ) ss.  
County of Maricopa     )

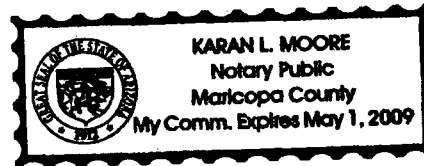
The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of April, 2006, by Robert J. Kuta, President of Arizona-American Water Company, an Arizona corporation, on behalf of the corporation.

Karan L. Moore  
Name

Development Coordinator  
Title

My Commission expires:

May 1, 2009



STATE OF ARIZONA     )  
                                      ) ss.  
County of Maricopa     )

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of March, 2006, by Mike Brilz, Vice President of Planning and Development, Pulte Home Corporation, a Michigan corporation, on behalf of the corporation.

Suzan Boswell  
Name

Exec. Asst  
Title

My Commission expires:

May 21, 2009



# Exhibit A

## LEGAL DESCRIPTION

(COMMITMENT FILE NO. 01329023)

LOTS 3 AND 4 AND THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 2 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THAT PORTION LYING WESTERLY OF THAT CERTAIN LINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 36;

THENCE NORTH 89 DEGREES 49 MINUTES 08 SECONDS WEST, ALONG THE MID-SECTION LINE OF SAID SECTION 36, 2090.00 FEET TO THE POINT OF BEGINNING OF THE LINE TO BE DESCRIBED, HEREIN;

THENCE SOUTH 24 DEGREES 25 MINUTES 35 SECONDS WEST, 1324.48 FEET TO THE POINT OF ENDING OF SAID LINE ON THE NORTH-SOUTH MID-SECTION LINE OF SAID SECTION 36, SAID POINT BEING NORTH 00 DEGREES 02 MINUTES 28 SECONDS WEST, 1473.86 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 36.

## LEGAL DESCRIPTION

(COMMITMENT FILE NO. 01329024)

THE NORTH HALF, AND THE NORTH HALF OF THE SOUTHWEST QUARTER, OF SECTION 36, TOWNSHIP 2 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 36; AND

EXCEPT THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 36; AND

EXCEPT THAT PORTION OF THE NORTH HALF OF SAID SECTION 36, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST-WEST MID-SECTION LINE OF SAID SECTION 36, WHICH POINT BEARS SOUTH 89 DEGREES 46 MINUTES 11 SECONDS WEST, 2090.00 FEET FROM THE EAST QUARTER CORNER, THEREUP

THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS EAST, 1000.00 FEET;

THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, 1300.00 FEET;

THENCE SOUTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, 1877.87 FEET;


THENCE SOUTH, 304.60 FEET TO THE AFORESAID EAST-WEST MID-SECTION LINE;

THENCE NORTH 89 DEGREES 46 MINUTES 11 SECONDS EAST, ALONG THE SAID EAST-WEST MID-SECTION LINE, 1540.00 FEET TO THE POINT OF BEGINNING; AND

EXCEPT ALL MINERAL DEPOSITS AND RIGHTS AS RESERVED BY THE STATE OF ARIZONA IN DEED RECORDED IN DOCKET 427, PAGE 469, MARICOPA COUNTY RECORDS, AND AS SET FORTH IN PATENT FROM THE UNITED STATES OF AMERICA RECORDED IN DOCKET 2089, PAGE 257, MARICOPA COUNTY RECORDS.

## NOTES

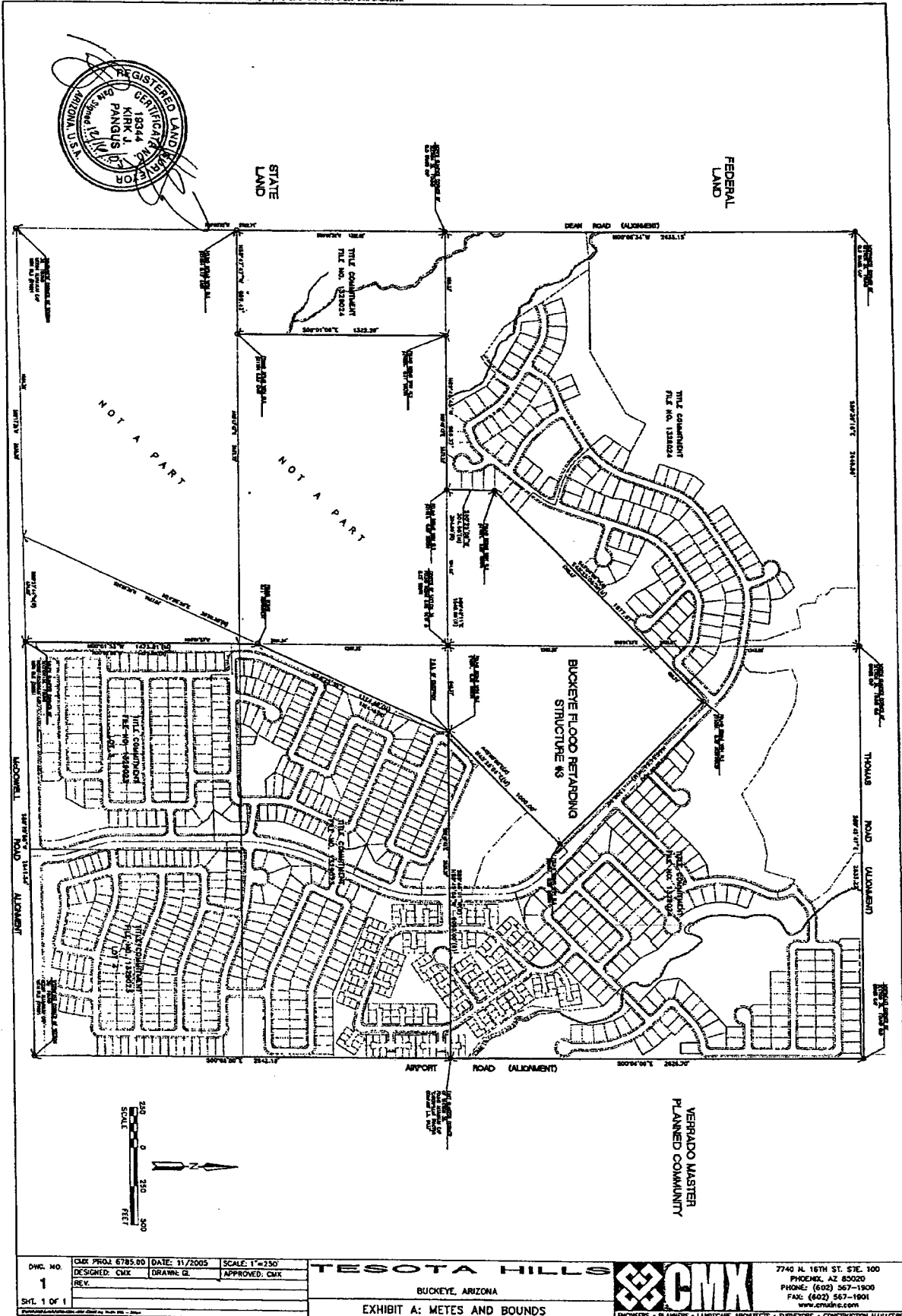
AREA IS 19,326,756 SQ. FT OR 443.6813 ACRES

CMX PROJ. 6785.00	<b>TESOTA HILLS</b>	7740 N. 16TH ST. STE.100 PHOENIX, AZ 85020 PH (602) 567-1900 FAX (602) 567-1901 www.cmxinc.com	
DATE: 11/2005			
SCALE:			
DRAWN BY: GL			
CHECKED BY: CMX			
EXHIBIT A: <b>LEGAL DESCRIPTION</b>			

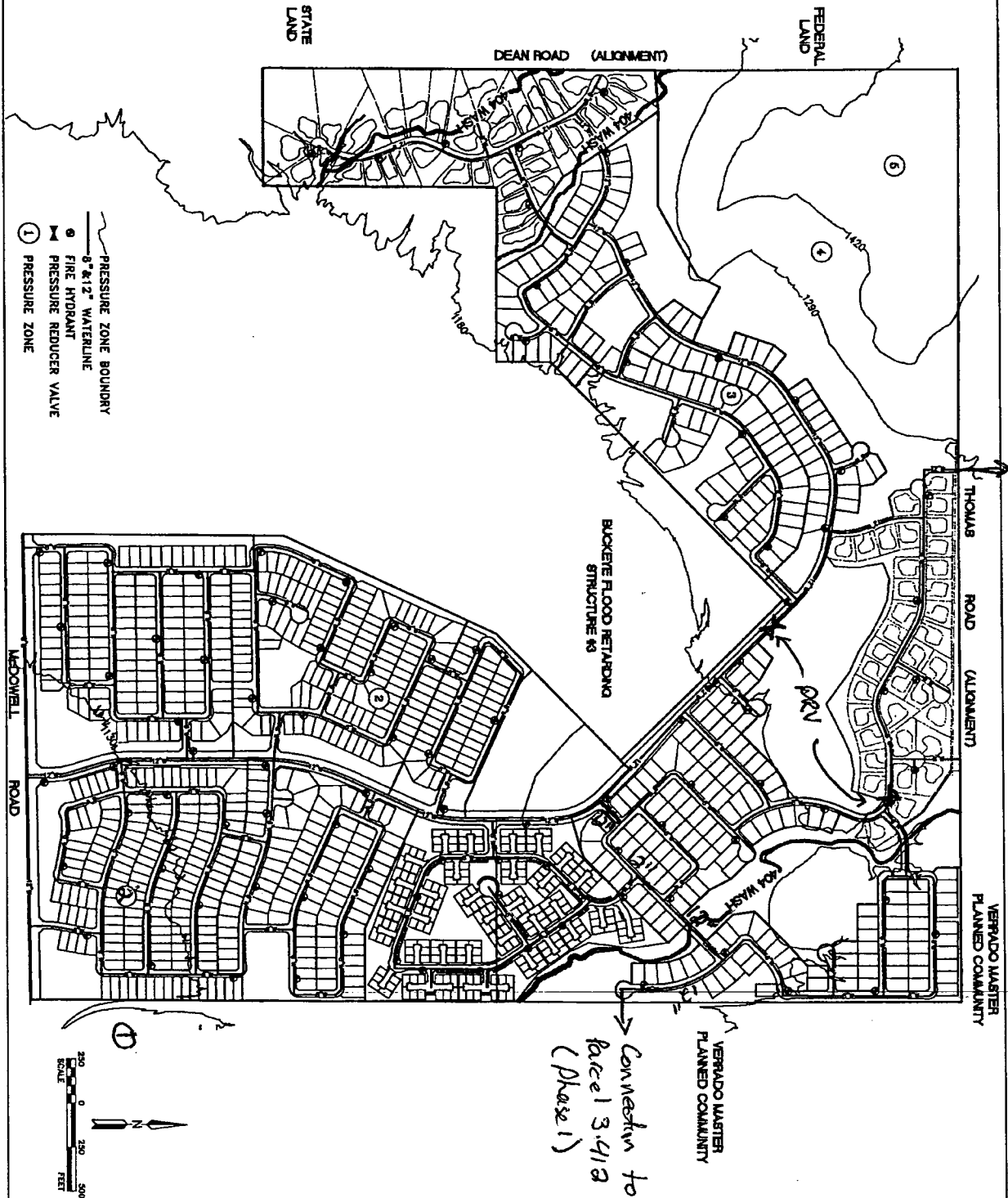
2:\6700\6785\ExhibitA\6785-LEGAL-DESCR-EXHIBIT.dwg 12-08-2005 - 4:31pm

# Exhibit A

© Copyright, CMX 2005 - This plan document set is the sole property of CMX. No alterations to these plans, other than adding "as-built" information, are allowed by anyone other than authorized CMX employees.



# Exhibit B



*Connection to Parcel 3.101 (Phase 2/3)*

*Connection to Parcel 3.418 (Phase 1)*

DWG. NO.	CMX PROJ: 8785.00	DATE: 11/2005	SCALE: 1"=250'
1	DESIGNED: CMX	DRAWN: CL	APPROVED: CMX
SHT. 1 OF 1			

**TESOTA HILLS**  
BUCKEYE, ARIZONA  
EXHIBIT B: WATERLINE DISTRIBUTION



7740 N. 16TH ST. STE. 100  
PHOENIX, AZ 85020  
PHONE: (602) 867-1900  
FAX: (602) 867-1901  
www.cmxaz.com

ENGINEERS • PLANNERS • LANDSCAPE ARCHITECTS • SURVEYORS • CONSTRUCTION MANAGERS

# Exhibit B



**Tesota Hills (Water)**  
211th Avenue & McDowell Road  
Buckeye, Arizona  
**Summary**

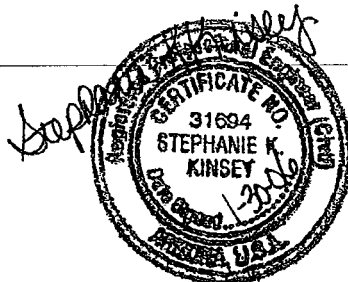
January 27, 2006

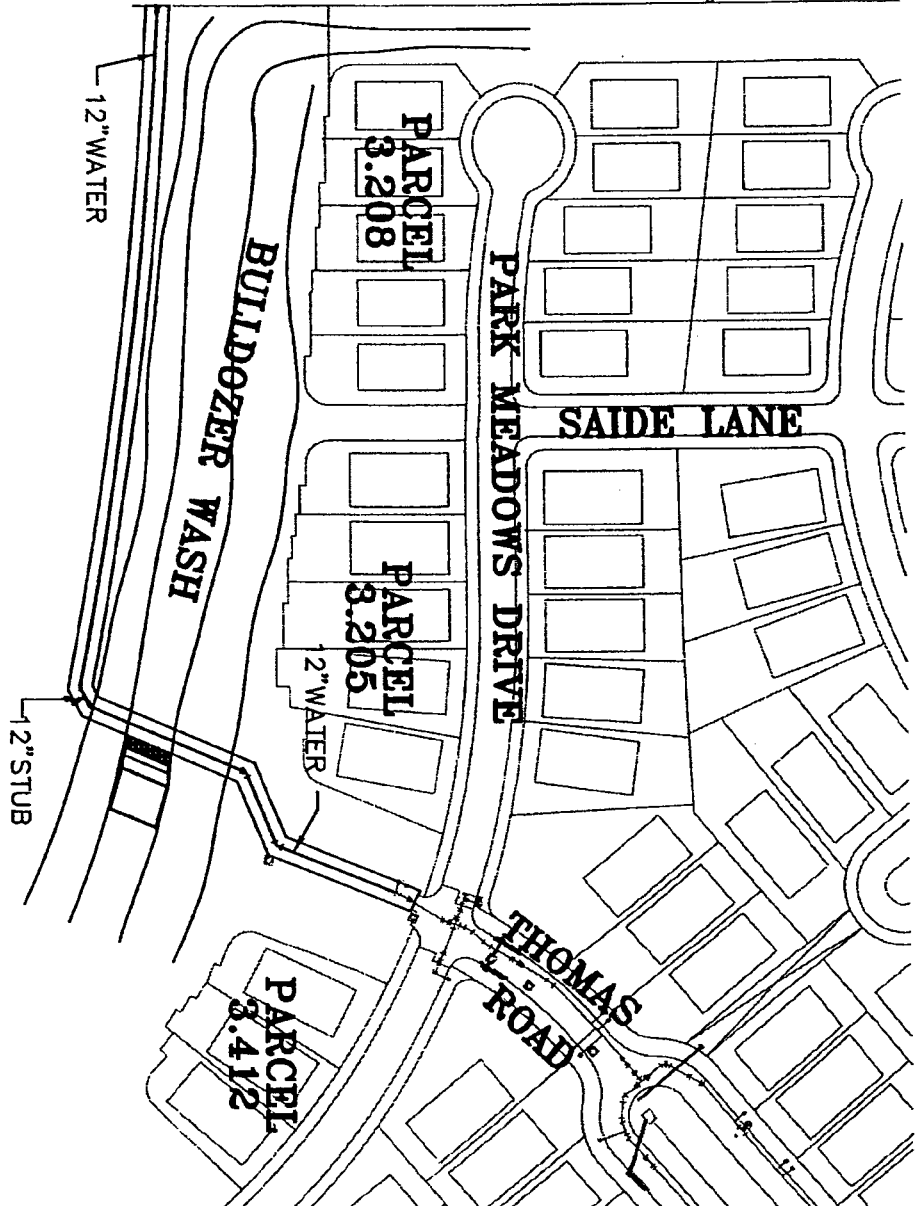
DESCRIPTION	QTY	UNIT	UNIT PRICE	COST
Plan Review and processing Fees	13	EA	200	\$ 2,600.00
Consultant Services Fess	1	LS	\$ 349,471.68	\$ 349,471.68
Construction Testing	1	LS	\$ 72,806.60	\$ 72,806.60
Wet Utilities				
12" Waterline	12260	LF	\$ 45.00	\$ 551,700.00
8" Waterline	49283	LF	\$ 28.00	\$ 1,379,924.00
12" Valve, Box and Cover	35	EA	\$ 1,550.00	\$ 54,250.00
8" Valve, Box and Cover	146	EA	\$ 875.00	\$ 127,750.00
Fire Hydrants, Complete	139	EA	\$ 3,400.00	\$ 472,600.00
3/4" Service Line & Meter Box	1017	EA	\$ 320.00	\$ 325,440.00
Connect to Existing	1	EA	\$ 600.00	\$ 600.00
Sales Tax	4.095%	OF	\$ 2,912,264.00	\$ 119,257.21
<b>Total Anticipated Development Costs</b>				<b>\$ 3,456,399.49</b>

DESCRIPTION	COST
Parcel 1 South	\$ 358,771.98
Parcel 2 North	\$ 131,624.61
Parcel 3 South	\$ 314,476.75
Parcel 3A North	\$ 258,862.81
Parcel 3B North	\$ 230,040.67
Parcel 4 North	\$ 186,357.39
Parcel 4 South	\$ 252,682.83
Parcel 5 South	\$ 117,057.58
Parcel 5 North	\$ 129,996.30
Parcel 6 North	\$ 129,427.04
Parcel 6 South	\$ 314,410.34
Parcel 7A South	\$ 57,656.91
Parcel 7B North	\$ 196,262.44
<b>Subtotal</b>	<b>\$ 2,677,627.63</b>

Description	Cost
Infrastructure	\$ 778,771.86

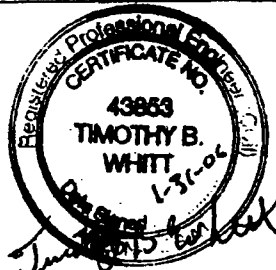
**Grand Total** **\$ 3,456,399.49**





M:\2009\05\26\0104\LEHIGH WATER FACILITIES TESTOTA Mills.docg - Jan 31, 2006 1:32pm

# Exhibit C

<b>Tesota Hills Water Line Extension</b>					
<b>Preliminary Opinion of Probable Infrastructure Costs</b>					
<b>Project Name</b>		<b>WATER LINE EXTENSION</b>			
<b>Project ID</b>		<b>052505</b>			
<b>Length of Project</b>		<b>937 LF</b>			
<b>Length of Lateral Stubs</b>		<b>0 LF</b>			
<b>Road Classification</b>		<b>-</b>			
<b>B/C Width</b>		<b>- FT</b>			
<b>Section depth</b>		<b>- IN</b>			
<b>Dry Utility Trench</b>		<b>-</b>			
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>Price</b>	<b>TOTAL</b>
<b>5.0 POTABLE WATER</b>					
	12" PC 350 DIP w/Polywrap & fittings	937	LF	\$ 33.00	\$ 30,921
	12" V.B. & C.	4	EA	\$ 1,650.00	\$ 6,600
	12"x 2" curb stop	2	EA	\$ 1,170.00	\$ 2,340
	Air Release Valves	1	EA	\$ 650.00	\$ 650
	Vertical Realignment w/ARV's	1	EA	\$ 3,200.00	\$ 3,200
	12" - 45 degree bend	8	EA	\$ 550.00	\$ 4,400
	Connect to ex. water line	1	EA	\$ 500.00	\$ 500
	<b>SUBTOTAL</b>				<b>\$ 49,000</b>
<b>TOTAL CONSTRUCTION COST</b>					<b>\$ 49,000</b>
	+ DESIGN FEES	9.0%			\$ 4,400
	+ CONSTRUCTION MANAGEMENT	4.0%			\$ 2,000
	+ CONTRACTING SALES TAX	5.0%			\$ 2,500
	+ MOBILIZATION	0.4%			\$ 200
	+ STAKING & AS-BUILTS	3.0%			\$ 1,500
	+ TRAFFIC CONTROL	0.5%			\$ 200
	+ PERMIT/ INSPECTION FEES	3.0%			\$ 1,500
	+ PLAN REVIEW FEES	0.5%	45.4%		\$ 200
	+ CONTINGENCIES	20.0%			\$ 9,800
<b>TOTAL COST FOR SEGMENT</b>		<b>WATER LINE EXTENSION</b>			<b>\$ 72,000</b>
<b>Total cost per lineal foot</b>				<b>\$</b>	<b>77</b>

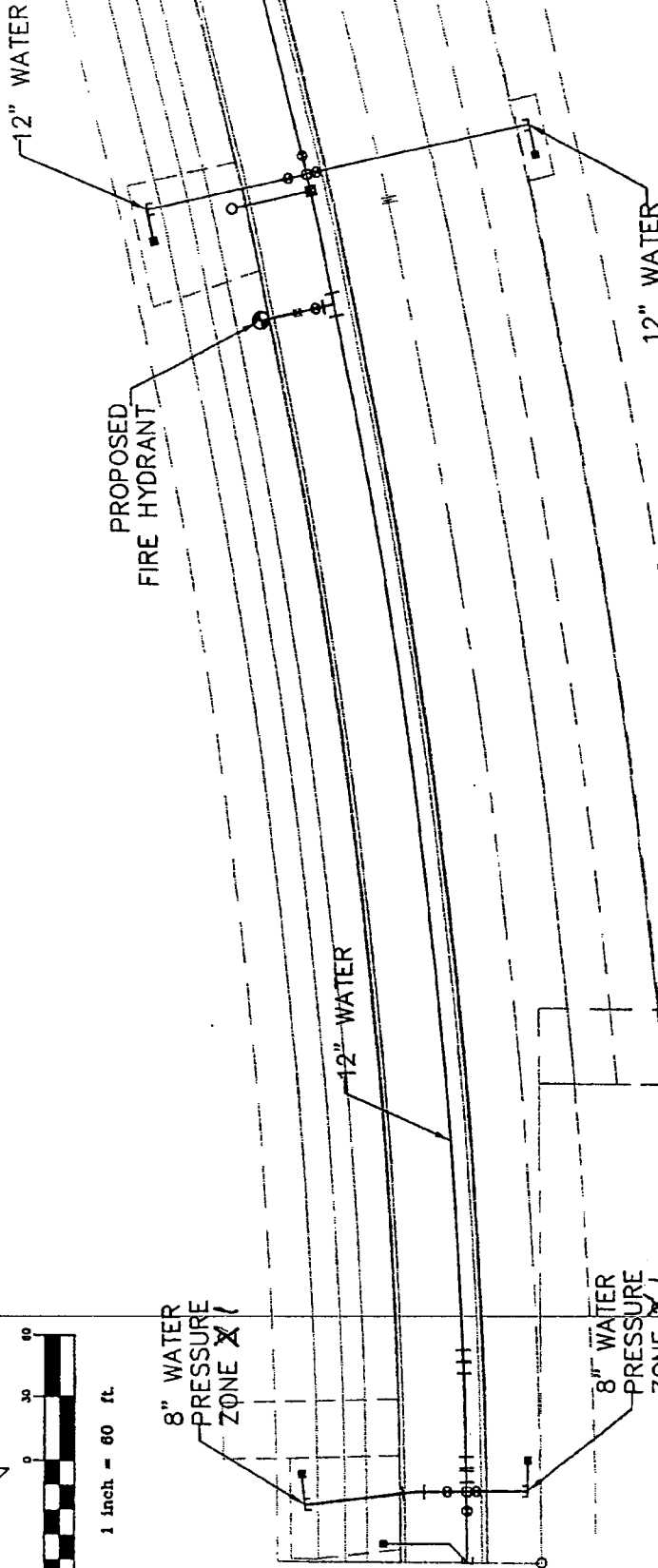
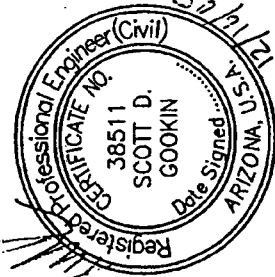
Offered without the benefit of plans and specifications, subject to change.



# Exhibit C

PAGE 1 OF 4

12/14/03  
W. VERRADO (002-400) (Reg. License) Water Exhibit 12-19-03-001



**MCDOWELL ROAD**

**WATER FACILITIES**  
**MCDOWELL ROAD**

**VERRADO**  
BUCKEYE, ARIZONA

**WOOD/PATEL**

LAND DEVELOPMENT • WATER RESOURCES  
TRANSPORTATION / TRAFFIC  
WATER / WASTEWATER • SURVEYING  
CONSTRUCTION MANAGEMENT

(602) 395-8500

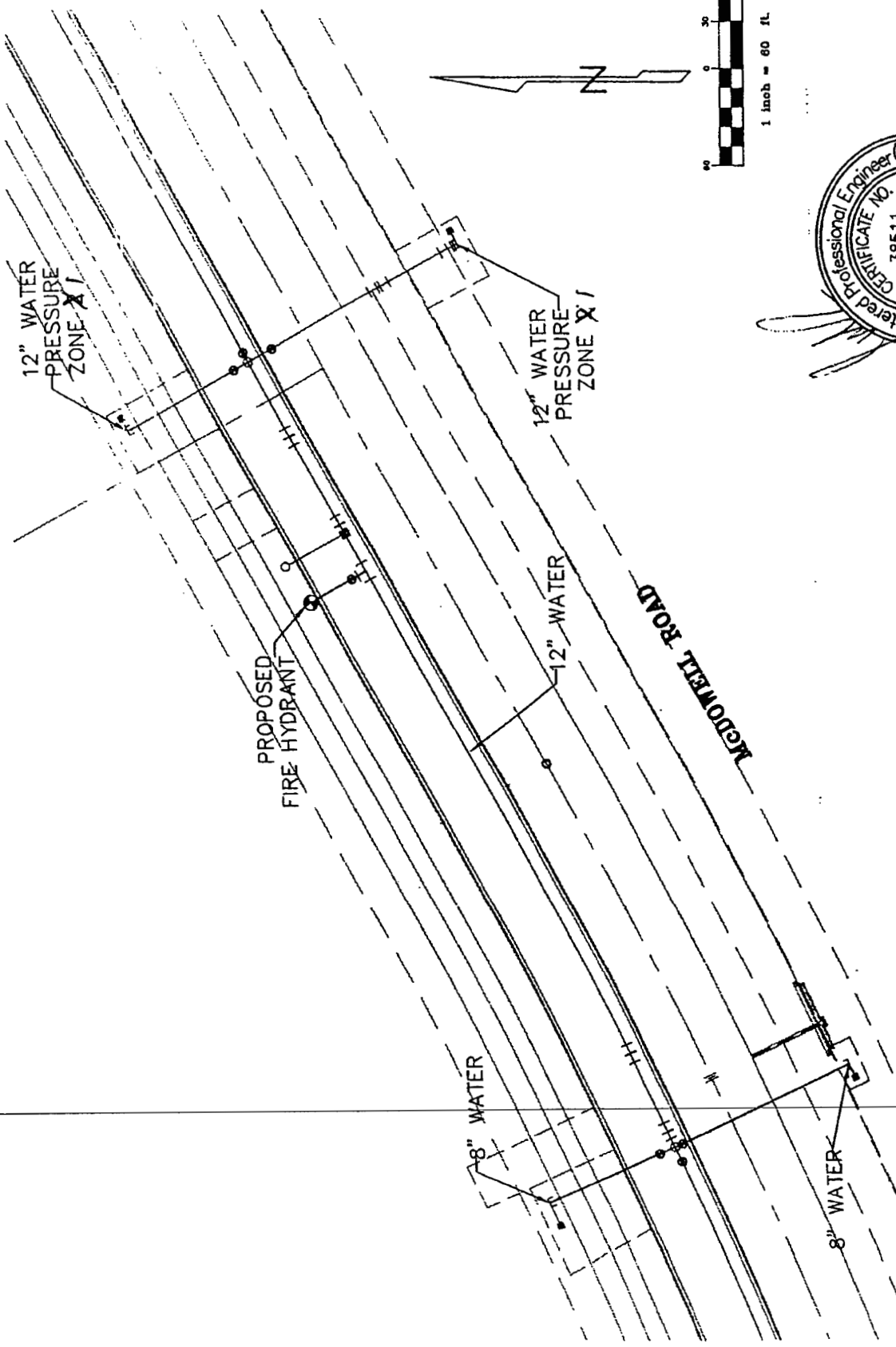
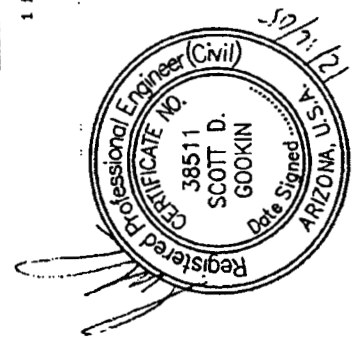
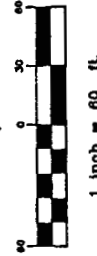
PHOENIX • MESA • TUCSON



# Exhibit C

PAGE 2 OF 4

12/14/08  
in: Y:\0000\10000000\00000000\Water Exhibit2-14-08.dwg



**WATER FACILITIES**  
**McDOWELL ROAD**  
**VERRADO**  
BUCKEYE, ARIZONA

**WOOD/PATEL**  
LAND DEVELOPMENT • WATER RESOURCES  
TRANSPORTATION PLANNING  
WATER CONSTRUCTION MANAGEMENT  
(602) 938-8500  
PHOENIX • MESA • TUCSON



# Exhibit C

12" WATER

12" WATER

PROPOSED  
FIRE HYDRANT

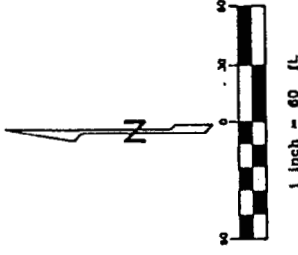
12" WATER

McDOWELL ROAD

8" WATER

12" WATER

8" WATER



WATER FACILITIES  
McDOWELL ROAD  
**VERRADO**  
BUCKEYE, ARIZONA

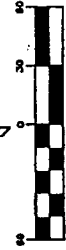
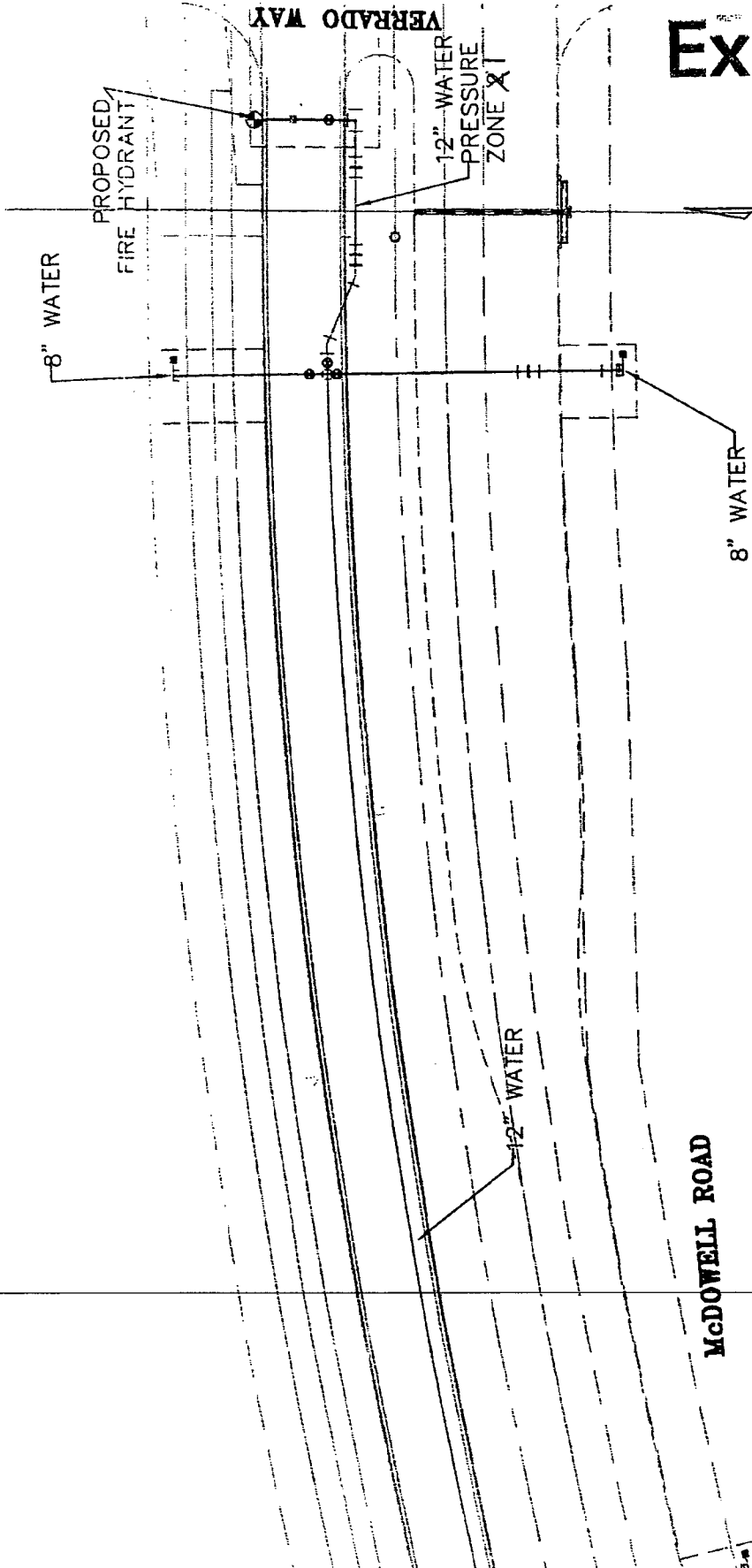
**WOOD/PATEL**  
LAND DEVELOPMENT • WATER RESOURCES  
TRANSPORTATION/TRAFFIC  
WATER/WASTEWATER • SURVEYING  
CONSTRUCTION MANAGEMENT  
(602) 333-8500  
PHOENIX • MESA • TUCSON



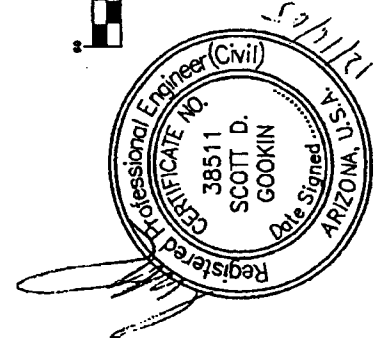
# Exhibit C

PAGE 4 OF 4

12/14/05  
M:\2005\051400\Drawings\Water Exhibit13-14-05.dwg



1 inch = 40 ft.



WATER FACILITIES  
MCDOWELL ROAD  
**VERRADO**  
BUCKEYE, ARIZONA

**WOOD/PATEL**  
LAND DEVELOPMENT & WATER RESOURCES  
TRANSPORTATION / TRAFFIC  
WATER / WASTEWATER & SURVEYING  
CONSTRUCTION MANAGEMENT  
(602) 535-8500

PHOENIX • MESA • TUCSON

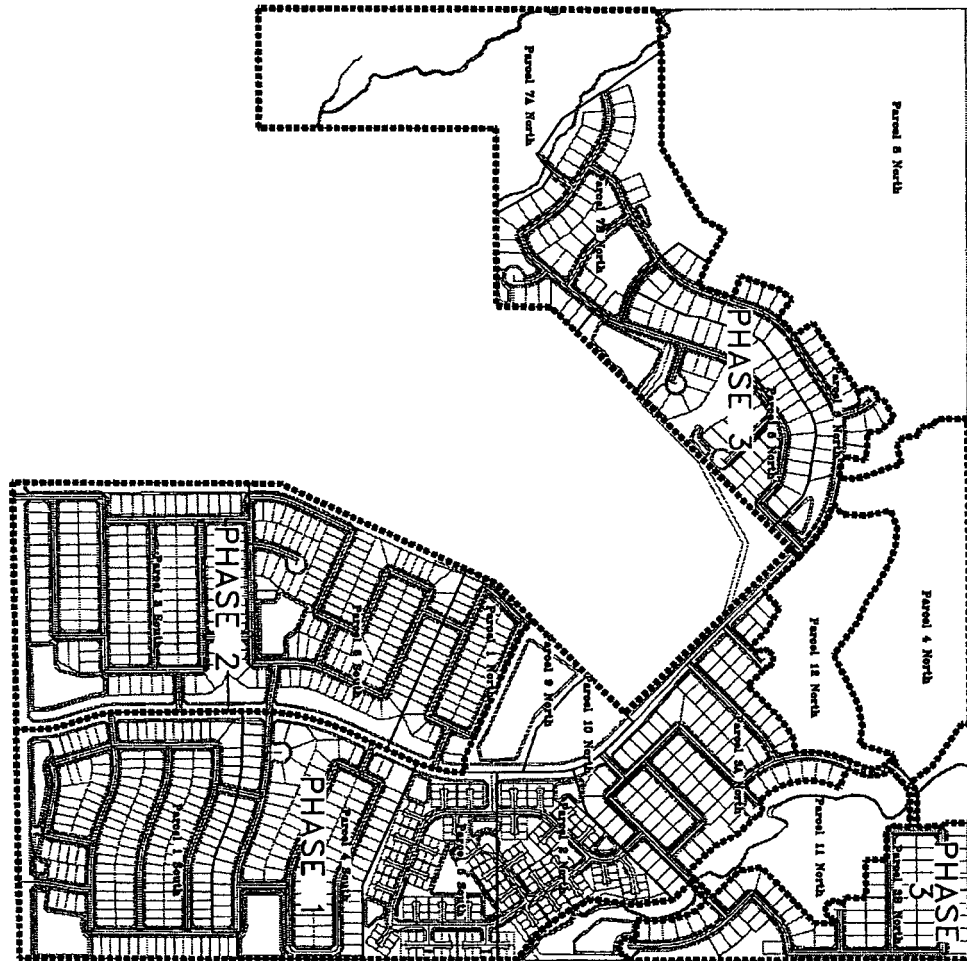


# Exhibit C

<b>McDowell Road</b>					
<b>Preliminary Opinion of Probable Infrastructure Costs</b>					
Project Name		McDowell Road WATER			
Project ID		052490			
Length of Project		3,336 LF			
Length of Lateral Stubs		684 LF			
Road Classification		-			
B/C Width		- FT			
Section depth		- IN			
Dry Utility Trench		-			
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>Price</b>	<b>TOTAL</b>
<b>5.0 POTABLE WATER</b>					
6" PC 350 DIP w/Polywrap & fittings		121	LF	\$ 22.75	\$ 2,753
8" PC 350 DIP w/Polywrap & fittings		563	LF	\$ 24.00	\$ 13,512
12" PC 350 DIP w/Polywrap & fittings		3,336	LF	\$ 33.00	\$ 110,088
6" V.B. & C.		4	EA	\$ 610.00	\$ 2,440
8" V.B. & C.		8	EA	\$ 900.00	\$ 7,200
12" V.B. & C.		13	EA	\$ 1,650.00	\$ 21,450
8"x2" curb stop		8	EA	\$ 910.00	\$ 7,280
12" x 2" curb stop		2	EA	\$ 1,170.00	\$ 2,340
Air Release Valves		3	EA	\$ 650.00	\$ 1,950
Fire Hydrant Assembly		4	EA	\$ 2,500.00	\$ 10,000
Vertical Realignment w/ARV's		4	EA	\$ 3,200.00	\$ 12,800
8" - 11.25 degree bend		1	EA	\$ 150.00	\$ 150
8" - 45 degree bend		12	EA	\$ 225.00	\$ 2,700
8" - 90 degree bend		4	EA	\$ 300.00	\$ 1,200
12" - 22.5 degree bend		2	LF	\$ 475.00	\$ 950
12" - 45 degree bend		16	EA	\$ 550.00	\$ 8,800
12"x 6" tee		4	EA	\$ 725.00	\$ 2,900
12" tee		2	EA	\$ 750.00	\$ 1,500
12"x 8" cross		4	EA	\$ 1.00	\$ 4
12" cross		3	EA	\$ 1,125.00	\$ 3,375
8" end cap		8	EA	\$ 50.00	\$ 400
12" end cap		7	EA	\$ 100.00	\$ 700
Remove Cap and Curb Stop		1	EA	\$ 100.00	\$ 100
<b>SUBTOTAL</b>					<b>\$ 215,000</b>
<b>TOTAL CONSTRUCTION COST</b>					<b>\$ 215,000</b>
+ DESIGN FEES	9.0%				\$ 19,400
+ CONSTRUCTION MANAGEMENT	4.0%				\$ 8,600
+ CONTRACTING SALES TAX	5.0%				\$ 10,800
+ MOBILIZATION	0.4%				\$ 900
+ STAKING & AS-BUILTS	3.0%				\$ 6,500
+ TRAFFIC CONTROL	0.5%				\$ 1,000
+ PERMIT/ INSPECTION FEES	3.0%				\$ 6,500
+ PLAN REVIEW FEES	0.5%	45.4%			\$ 1,100
+ CONTINGENCIES	20.0%				\$ 43,000
<b>TOTAL COST FOR SEGMENT</b>	<b>McDowell Road WATER</b>				<b>\$ 313,000</b>
Total cost per lineal foot				\$ 94	

Offered without the benefit of plans and specifications, subject to change.

# Exhibit D



DWG. NO.	CMX PROJ. 6785.00	DATE: 11/2005	SCALE: 1"=300'
1	DESIGNED: CMX	DRAWN: RAL	APPROVED: CMX
REV.			
SHT. 1 OF 1			

**TESOTA HILLS**  
BUCKEYE, ARIZONA  
EXHIBIT E: PHASING



7740 N. 18TH ST. STE. 100  
PHOENIX, AZ 85020  
PHONE: (602) 667-1900  
FAX: (602) 567-1901  
www.cmxinc.com

ENGINEERS • PLANNERS • LANDSCAPE ARCHITECTS • SURVEYORS • CONSTRUCTION MANAGERS

## EXHIBIT "E"

### Cost Estimate for Common Facilities

#### I. Verrado Reservoir Expansion

ENGINEERING COSTS				
Item	Unit	Quantity	Unit Price (\$)	Total (\$)
Consultant	LS	1	\$95,000	\$95,000
AAW Labor	LS	1	\$10,000	\$10,000
			Eng. Subtotal	\$105,000
CONSTRUCTION COSTS				
General Requirements	LS	1	\$25,000	\$25,000
Site Work	LS	1	\$75,000	\$75,000
1.735 MG Reservoir	LS	1	\$2,060,000	\$2,060,000
			Construction Subtotal	\$2,160,000
			Total Cost	\$2,265,000

Equivalent Residential Units (ERUs) to be served by the Verrado Reservoir Expansion (1.735 MG) = 4,239 ERUs

Cost per ERU = \$2,265,000 ÷ 4,239 = \$534.32/ERU

Developer's portion for Verrado Reservoir Expansion cost = \$534.32 X 1,070 lots = \$571,726.82

F



**WASTEWATER FACILITIES  
LINE EXTENSION AGREEMENT**

This Agreement is made this 3<sup>rd</sup> day of April, 2006 by and between Arizona-American Water Company, an Arizona corporation, (hereinafter referred to as "Utility"), with offices at 19820 N. 7<sup>th</sup> Street, Suite 201, Phoenix, Arizona 85024, and Pulte Home Corporation (hereinafter referred to as "Developer"), a Michigan corporation, with offices at 15111 North Pima Road, Suite 100, Scottsdale, Arizona 85260.

**WITNESSETH**

WHEREAS, Utility provides public utility wastewater service in portions of the Town of Buckeye, Arizona;  
and,

WHEREAS, Utility holds a Franchise for wastewater services for the project issued by the Town of Buckeye;  
and

WHEREAS, Developer proposes to develop a 444-acre parcel with up to 1070 single family homes known as -----  
Tesota Hills (hereinafter referred to as "Development"), located in the Town of Buckeye as described in Exhibit "A";  
and,

WHEREAS, , Utility is willing to apply to the Arizona Corporation Commission (hereinafter referred to as "Commission") for an expansion of Utility's current Certificate of Convenience and Necessity to include said Development; and,

WHEREAS, to meet the public utility wastewater service needs of the Development, certain Wastewater Collection Facilities described in Exhibit "B", attached hereto and incorporated by reference, must be constructed; and,

WHEREAS, Utility is willing to have Developer design and construct the Wastewater Collection Facilities, subject to Utility's written approval of the design and construction; and,

WHEREAS, to meet the wastewater service needs of the Development, certain Off-site Facilities as described in Exhibit "C" must be constructed; and,

WHEREAS, Developer is willing, either jointly with neighboring Verrado, or as described in Exhibit "C", to construct the Off-site Facilities, and have Utility design and construct any other required Common Facilities as described in Exhibit "D"; and,

WHEREAS, Utility and Developer must obtain certain regulatory approvals before wastewater facilities can be constructed and wastewater service provided to the Development.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties hereby agree as follows:

**I. Definitions**

1. For the purpose of this Agreement, unless context requires otherwise, these terms shall be defined as follows:

(a) "Agreement" means this Agreement, including all exhibits, amendments, and addenda.

(b) "Common Facilities" means the expansion of the Verrado wastewater treatment plant and influent pumping station or related facilities and appurtenances designed, constructed, installed, or modified by Utility to serve the Development as described in Paragraph VI.3 and more fully described in Exhibit "D". The wastewater treatment plant is generally located east of Verrado Way along the Thomas Road alignment. Utility owns and operates the wastewater treatment plant, which currently serves the Verrado development.

(c) "Developer" means Pulte Home Corporation, a Michigan corporation qualified to do business in Arizona, and its successors and assigns.

(d) "Development" means a 444-acre parcel with up to 1070 single family homes, known as Tesota Hills, located in the Town of Buckeye as described in Exhibit "A".

(e) "Equivalent Residential Unit" (ERU) means a single-family residential dwelling located within the Development or, in the case of commercial or multi-family customers (excluding right-of-way irrigation) within Development, is based on the as then current tariff. The current approved ERU schedule is as follows (subject to change by the Arizona Corporation Commission):

<u>Type of Improvement</u>	<u>Associated ERU</u>
Single Family Home	1.0
Apartment Units	0.5
Commercial Units (per acre)	4.0
Resorts (per room)	0.5
Parks acreage, Golf Course acreage and Right-of-Way landscaping acreage	0.0

(f) "Final Acceptance" means Utility's written Final Acceptance of the Wastewater Collection Facilities, to be issued after Operational Acceptance, and full completion of such facilities, and after Developer has provided all required submittals pursuant to Paragraph IV.9 and all fees as set forth in Paragraph VI.2 and VI.3 of this Agreement.

(g) "Master Plan" means the approved wastewater master plan report submitted to Utility by Developer's engineer, or DMB White Tank, LLC's engineer for Verrado, showing sizes and approximate locations of Wastewater Collection Facilities and Off-site Facilities to be constructed to allow Utility to provide wastewater service to the Development as set forth herein.

(h) "Operational Acceptance" means Utility's written Operational Acceptance of the Wastewater Collection Facilities, subject to further inspection by Utility and correction of any outstanding punch-list items by Developer.

(i) "Off-site Facilities" means any wastewater pumping, wastewater collection or related facilities and appurtenances designed, constructed, installed, or modified to serve the Development by Developer (alone or jointly with neighboring Verrado) as set forth in Exhibit "C" attached hereto and incorporated herein by reference.

(j) "Phase" shall mean a specified portion of the Development that is intended to be constructed and developed independently from other portions of the Development as identified in Exhibit "E", but not to be less than 100 homes. Notwithstanding the foregoing, two custom lot areas may be developed in phases with less than 100 lots.

(k) "Utility" means Arizona-American Water Company, an Arizona corporation, its successors and assigns.

(l) "Wastewater Collection Facilities" means wastewater related facilities to be designed, constructed or installed by Developer for the purpose of providing wastewater service to individual lots, housing and/or commercial units within the Development as set forth in Exhibit "B" attached hereto and incorporated herein by reference.

(m) "Wastewater Facilities Hook-up Fee" means the Developers actual prorated share of costs of the Verrado wastewater treatment plant and influent pumping station expansion ("Common Facilities"). Developer's anticipated prorated share of these costs is described in Paragraph VI.3 and is more fully described in Exhibit "D".

## **II. Authorizations**

1. Utility shall on a timely basis take all reasonable steps necessary and use its reasonable best efforts to obtain and renew any authorizations to provide Utility wastewater services to the Development which may be required by law or regulation. These authorizations include but are not limited to certificates of convenience and necessity, operating

agreements, franchises, permits and similar authorizations obtained from regulatory agencies and other governmental agencies.

2. Developer shall obtain an Arizona Department of Environmental Quality (ADEQ) Certificate of Approval to Construct and Certificate of Approval of Construction and all required zoning clearances, construction permits and similar authorizations from regulatory agencies and other governmental agencies for all facilities to be constructed by Developer or assignee hereunder.

3. Utility shall apply for approval of this Agreement with the Commission concurrently with the submission of the Utility's application to extend its Certificate of Convenience and Necessity to include the Development. Notwithstanding Utility's obligations in this Paragraph and in Paragraph 1 above, Developer may, at Developer's expense, hire an attorney and/or consultant acceptable to both Utility and Developer to prepare Utility's application to extend its Certificate of Convenience and Necessity, and Utility's application to seek expedited approval of this Agreement. If Developer's attorney and/or consultant prepare one or both applications, Developer shall submit such applications to Utility for review and approval prior to filing them with the Arizona Corporation Commission. Utility shall promptly review and approve the applications, and shall cooperate with Developer and the Arizona Corporation Commission to achieve expedited approvals.

4. Utility's obligations hereunder are contingent upon its ability to obtain any material and significant authorizations more fully described in Paragraph 1 above. Utility will not be liable to Developer or its contractors and subcontractors for damages if Developer begins construction or authorizes the start of construction before Developer and Utility have obtained the authorizations required hereunder.

### **III. Master Plan**

1. The intent of this Agreement is that Developer shall construct or cause to be constructed for the future use of Utility, in accordance with provisions of this Agreement, all Wastewater Collection Facilities and Off-site Facilities as shown on the Master Plan, and such other facilities identified in the Master Plan required for Utility to provide public utility wastewater service to the Development.

2. Developer has caused a Master Plan to be prepared for the Development which shows locations and sizing of all Wastewater Collection Facilities and Off-site Facilities required to provide public utility wastewater service to the Development. The Master Plan, and any subsequent amendments by Phase, must be approved in writing by Utility.

Once the Master Plan and any amendments are approved by Utility, they will be incorporated herein and made a part of this Agreement as if set out in full herein.

**IV. Wastewater Collection Facilities**

1. Developer shall design, construct and install, or cause to be designed, constructed or installed, the Wastewater Collection Facilities and Off-site Facilities necessary to provide adequate wastewater service to the Development as detailed in the Master Plan prepared by the Developer's engineer and approved by Utility. Developer's estimated schedule of materials, unit quantities, and cost is set forth in Exhibits "B" and "C". Developer shall pay all of the costs of constructing, installing, and connecting the Wastewater Collection Facilities and Off-site Facilities including, but not limited to, the costs of engineering, materials, labor, transportation, equipment, necessary permits and approvals, easements, testing, corrections, insurance and bonds. Developer's costs for the construction and installation of the Wastewater Collection Facilities and Off-site Facilities shall be considered an advance in aid of construction and subject to refund in accordance with Paragraph V.1 of this Agreement.

2. Developer agrees that the completion of the Wastewater Collection Facilities and Off-site Facilities will be timed so as to enable Utility to provide wastewater service to the Development as such service is requested.

3. If requested by Utility, Developer shall "oversize" the Wastewater Collection Facilities and Off-site Facilities as specified by Utility. For each such request, in addition to the procedures required under Paragraph IV.4, Developer shall obtain, and submit to Utility for review, two bids from Developer's contractor, one for the non-oversized facilities, and one for the oversized facilities. Upon Utility's approval of the bids, which shall not be unreasonably withheld, Utility shall reimburse Developer for the amount by which the bid for the cost of the oversized facilities exceeds the bid for the cost of the non-oversized facilities. Payment for oversizing will be made by Utility to Developer within thirty (30) days of written notice to Utility after Utility's Final Acceptance of said Wastewater Collection Facilities and/or Off-site Facilities.

4. Developer shall obtain, at its cost, which cost shall be part of its advance to Utility, all permits, zoning, easements and other approvals in advance of design and construction of the Wastewater Collection Facilities and Off-site Facilities. All plans, specifications, construction and installation of the Wastewater Collection Facilities and Off-site Facilities shall be in accordance with good Utility practices, the rules, regulations and requirements of the Arizona Department of Environmental Quality, Utility's specifications and details, and the requirements of all other governmental agencies having jurisdiction thereover. Additionally, construction will not commence until all of said plans and

specifications have been approved in writing by Utility. Approval by Utility shall not be unreasonably withheld or delayed. Developer will submit said plans and specifications to Utility for review and approval, as well as preliminary plats, final plats, address maps, projected home closings by quarter, and other items reasonably requested by Utility. Unless otherwise agreed, if Developer begins construction of any facilities before all required approvals have been obtained, such construction will be at Developer's sole risk and subject to repair, alteration or reconstruction at Developer's expense as directed by Utility or any regulatory agency. Utility reserves the right to deem plan approval null and void if Developer does not begin construction within one year from the date of the initial plan approval. If Developer has not started construction within one year from the date of the initial plan approval and Utility deems the plan approval null and void, Developer must resubmit plans and specifications for Utility's written approval.

5. Developer shall comply with the inspection and testing requirements of Utility for the Wastewater Collection Facilities and Off-site Facilities. Developer shall give Utility adequate notice when the Wastewater Collection Facilities and Off-site Facilities under construction are ready for inspection and testing, and Utility shall inspect the same promptly after being so notified. No facility will be placed in service until inspected by Utility, ADEQ has issued its Approval of Construction and Utility has issued its Operational Acceptance. Utility specifically reserves the right to withhold Operational Acceptance of the Wastewater Collection Facilities and Off-site Facilities unless said facilities have been constructed in accordance with the approved plans and specifications and are reasonably satisfactory to Utility upon inspection and testing. Developer agrees to promptly correct all defects and deficiencies in construction, materials and workmanship upon request by Utility made subsequent to inspection by Utility and for one year following Utility's written Final Acceptance of the Wastewater Collection Facilities and Off-site Facilities in accordance with the terms of this Agreement. Inspection and/or acceptance by Utility will in no way relieve or limit Developer's responsibility and liability for construction and installation of the facilities in accordance with the terms of this Agreement. Utility acknowledges that certain portions of the Property may require private sewer facilities (grinder pumps) to serve a small number of ERU's due to topographical constraints. Developer shall use all other reasonable means to provide gravity service before proposing private sewer facilities. Further, any and all private sewer facilities shall require the additional approval of all jurisdictional authorities. Utility shall have no responsibility for the construction, inspection, operation or maintenance of any private sewer facility. Additionally, Developer is to clearly depict all private sewer facilities on the construction plans. Developer is responsible for ensuring that every lot being serve via private sewer is properly notified

of homeowner's and Utility's responsibility for said private sewer facility. Such notification shall also be included in the covenants, conditions & restrictions.

6. The Wastewater Collection Facilities and Off-site Facilities constructed pursuant to this Agreement shall become, upon Operational Acceptance, and remain the sole property of Utility without the requirement of any written document of transfer to Utility. However, Developer shall furnish any document pertaining to ownership and title as may be requested by Utility, including documents which evidence or confirm transfer of possession to Utility, and good and merchantable title free and clear of liens, or which contain provisions for satisfaction of liens by Developer. All risk of loss of Wastewater Collection Facilities and Off-site Facilities shall be with Developer until written Operational Acceptance by Utility of the Wastewater Collection Facilities and/or Off-site Facilities or any portions thereof. Developer shall repair or cause to be repaired promptly, and at no cost to Utility, all damage to the Wastewater Collection Facilities and Off-site Facilities caused by construction operations until all construction within the specific Phase of Development by or for Developer has been completed and accepted by Utility. Developer acknowledges that Utility has the right to, and may in the future, connect its existing or future wastewater systems to the Wastewater Collection Facilities and Off-site Facilities.

7. If all or any portion of Developer's advances in aid of construction, whether already paid or to be paid, will constitute taxable income to Utility, Developer will advance funds to Utility in an amount required to gross-up the advance so that Utility's after-tax benefit will equal what it would be if no taxes were owed.

(a) For advances already made, Developer will remit the required funds to Utility within 30 days after Utility notifies Developer that the advances will likely constitute taxable income.

(b) Utility will notify Developer when Utility determines that future advances will likely constitute taxable income.

(c) Utility's notice will include documentation reasonably necessary to substantiate its liability for income taxes, such as a determination or notification by a governmental authority, amendment to the Internal Revenue Code, a regulation promulgated by the Internal Revenue Service, or similar change to any statute, rule or regulation relating to this matter.

(d) If additional funds are paid by Developer under this Paragraph, these funds will also constitute advances in aid of construction and are refundable in accordance with Article V..

(e) Developer also indemnifies and holds Utility harmless for, from and against any tax-related interest, fines and penalties assessed against Utility and other costs and expenses incurred by Utility as a consequence of Developer's late payment of the amounts described in this Paragraph.

(f) The gross-up amount to be paid pursuant to this Paragraph will be calculated as follows:  
$$G = A \times R / (1 - R)$$

Where: G = Gross-up amount;

A = Amount of Developer's advances subject to tax; and

R = Percentage tax rate divided by 100.

8. Developer shall, at no cost to Utility, and before commencement of construction, grant or cause to be granted to Utility, perpetual non-exclusive rights-of-way and easements and obtain all necessary zoning and other governmental approvals as required, in a form reasonably satisfactory to Utility's counsel, for and Wastewater Collection Facilities and Off-site Facilities constructed pursuant to this Agreement.

9. Developer shall, within forty five (45) days of Operational Acceptance of each Phase of the Wastewater Collection Facilities and Off-site Facilities by Utility, furnish Utility with: (a) copies of all contracts and paid bills, invoices and other statements of expenses incurred by Developer, covering all of the costs of materials, equipment, supplies, construction and installation of the Wastewater Collection Facilities and Off-site Facilities, (b) lien waivers and releases from contractors, subcontractors and vendors for materials, equipment, supplies and construction included in the Wastewater Collection Facilities and Off-site Facilities, (c) receipts, specifying exact amount of payments in full by Developer to all contractors, subcontractors and vendors for all materials, equipment, supplies, labor and other costs of construction of the Wastewater Collection Facilities and Off-site Facilities, (d) "as-built" drawings on 4-mil Mylar, certified as to correctness by an engineer registered in the State of Arizona and showing the locations, materials, and respective sizes, and pertinent construction details for all Wastewater Collection Facilities and Off-site Facilities, and (e) CAD files, in electronic format acceptable to Utility, of the construction drawings and final plat in accordance with Utility's specifications.

**V. Refunds**

1. Refunds of advances in aid of construction will be made in accordance with this Paragraph.



a). Refund year one will begin on the first July 1 after the date of Operational Acceptance of any Phase of the Wastewater Collection Facilities and will end on the next June 30. Refund years two through eight will follow from each July 1.

b). For each refund year, refunds will be made based on the cumulative, applicable, advances in aid of construction as of the first day of the refund year. Each refund year, Utility will refund ten percent (10%) of Utility's total wastewater revenues from customers in the Development (excluding all gross receipts taxes or sales taxes, and all District, Municipal, County, State or Federally imposed regulatory assessments). For each refund year, Utility will pay a refund to Developer by August 31 (following the June 30 end of a refund year). Refunds will be paid for each of the refund years in which Utility receives revenue, but the total refunds to be paid for Wastewater Collection Facilities cannot exceed the total amounts paid by Developer as advances in aid of construction in the Development. Any balance remaining at the end of the eight-year period is nonrefundable. No interest will be paid on any amount of the advances in aid of construction.

c). Wastewater Facility Hook-Fees collected in accordance with Article VI.3 are considered the Developers prorated share of contributed facilities, Common Facilities, and are not subject to refund by Utility.

#### **VI. General Provisions**

1. For each Phase, Utility shall, upon Operational Acceptance of the Wastewater Collection Facilities, Off-site Facilities and payment of all fees required hereunder or by the terms of the then current and applicable tariffs of Utility, provide wastewater service to the Development in accordance with the rates, charges and conditions set forth in the tariffs of Utility as filed with the Commission. Those rates, charges and tariffs are subject to change from time to time upon approval by the Commission. Utility has no obligation to provide wastewater service to the Development until all fees have been paid as provided in this Agreement.

2. Upon execution of this Agreement, Developer will pay to Utility a plan-review fee equal to 4.84% of the total costs set forth on Exhibits "B", and "C" to compensate Utility for the cost of its coordination, reviews, inspections, testing, and approvals (including all related overhead costs) incurred by Utility under this Agreement. The 4.84% plan-review fee is deemed the final and reconciled cost for these services provided by Utility. Utility will credit toward the plan-review fee any previously paid deposits concerning the Wastewater Collection Facilities and Off-site Facilities. The plan-review fee attributable to the Wastewater Collection Facilities and Off-site Facilities is an advance in aid of construction and is subject to refund in accordance with Paragraph V.1.

3. Within 30 days after Utility's award of a contract for construction of the Common Facilities, or such other date as may be agreed upon in writing by Utility and Developer, Developer shall pay to Utility Developer's portion of the Common Facilities costs for the design, construction, installation, and modifications to the Verrado wastewater plant and influent pump station expansion described in detail in Exhibit "D", attached hereto, and incorporated herein by reference. These costs shall include, but may not be limited to, the costs of engineering, materials, labor, transportation, equipment, necessary permits and approvals, easements, testing, corrections, insurance and bonds. Common Facilities fees contributed by Developer will be credited to Developer and are subject to offset against Wastewater Facilities Hook-up Fees paid pursuant to this Article.

(a). The Parties have assumed in this Agreement (see Exhibit "D," attached), that the Tesota Hills portion of the cost of the Common Facilities is \$2,127 per ERU, based on the Verrado WRF expansion having 1.1 MGD of treatment capacity which will serve 3,667 ERU's. At the earlier of (1) five years from the date of execution of this Agreement or (2) the Verrado WRF expansion reaching 80% of its treatment capacity, Utility and Developer will mutually agree upon the actual number of ERU's that are currently being served and the adjusted total ERU's that can be served by the Verrado WRF expansion. If actual treatment capacity pursuant to this Paragraph VI.3(a) is less than or greater than 3,667 ERU's, then the Developer's portion for the Verrado WRF expansion in Exhibit "D" will be recalculated accordingly. If Developer's re-calculated portion for the Verrado WRF expansion is less than the Parties estimate of \$2,127 per ERU based on actual treatment capacity and Utility's actual cost of construction, then Utility shall refund the excess funds to the Developer within thirty (30) days after the actual treatment capacity has been determined. If Developer's re-calculated portion for the Verrado WRF expansion exceeds the Parties estimate of \$2,127 per ERU, then Utility shall invoice the Developer for the remaining balance of the Developer's portion of the cost of the Verrado WRF expansion. The Developer shall within thirty (30) days after the receipt of the invoice submit payment to the Utility. Utility shall use its reasonable best efforts to ensure that the completion of the Common Facilities will be timed so as to enable Utility to provide wastewater service to the Development as such service is requested. Utility has no obligation to provide wastewater service to a lot in said Development until the Wastewater Facility Hook-up Fee has been paid for each single family home as provided in this paragraph.

4. Water for construction within the Development shall be made available only in quantities which are in excess of quantities required for service to other customers connected to Utility's existing system. All water is expected to be metered, but if Developer requests to use unmetered water and if approved by Utility, water used for construction of

water and wastewater facilities may be unmetered, in which case Utility will estimate, in accordance with Utility's standard procedures, the amount of unmetered water used and charge Developer for the water. Estimated and metered water used for the construction of water and sewer facilities or other facilities within the Development shall be billed by the Utility to Developer at the Utility's then current tariff rate. Utility reserves the right to estimate and bill Developer for all unauthorized unmetered water use for the Development. Utility may terminate this Agreement and water service if unauthorized unmetered water use is continued after Developer receives a notice to cease the use of unauthorized unmetered water. Utility agrees to, and, if requested, will provide, at no cost to Developer or Utility, any required authorizations for, Developer's delivery and use of Developer's own Ak-Chin Water for construction purposes within Development. Ak-Chin Water is defined in the Water Facilities Line Extension Agreement.

5. Utility shall use its reasonable best efforts to maintain satisfactory and continuous service, but does not guarantee continuous wastewater service. Utility shall not be liable for damages occasioned by interruptions or failure to commence service or unsatisfactory service or any act or failure to act arising out of this Agreement caused by an act of God or the public enemy, accident, fire, explosions, strikes, riots, war, delay in receiving shipments of required material, order of any court or judge granted in any bona fide adverse legal proceedings or action, or any order of any commission or tribunal having jurisdiction in the premises; or without limitation by the preceding enumeration, any other act or thing reasonably beyond its control or incident to interruptions necessary for repairs or changes in Utility's wastewater facilities.

6. Prior to the commencement of construction of the Wastewater Collection Facilities and Off-site Facilities, Developer shall furnish Utility with appropriate certificates of insurance coverage effective during the period of construction in the following types and amounts:

a) Worker's Compensation Insurance and Occupational Disease Disability Insurance in the benefit amounts required by the laws and regulations of the State of Arizona.

b) Commercial General Liability Insurance, including operations and protective liability coverage, with limits of not less than \$2,000,000 combined single limit for bodily injury (including death) and property damage. When the work to be performed requires blasting, Developer's insurance shall specifically cover that risk. **Utility shall be named as an additional insured.**

c) Comprehensive Automobile Liability Insurance with limits of \$100,000/\$300,000 covering all owned and non-owned automobiles or trucks used by or on behalf of Developer in connection with the work.

7. Developer will indemnify and hold Utility, its officers, directors, agents, and employees harmless from and against any and all claims, damages, costs and expenses, including penalties and assessments, attorneys' fees and court costs, to which they or any of them may be subjected by reason of injury, death, loss, claim, penalty, assessment or damage caused or contributed to by the active or passive negligence of Developer, its agents, servants, employees, contractors or subcontractors in the execution of the work or in connection therewith; and in case any suit or other proceeding shall be brought on account thereof, Developer will assume the defense at Developer's expense and will pay all judgments rendered therein. The foregoing indemnity does not cover any negligent or wrongful acts of Utility, its officers, directors, agents or employees.

8. The failure of either party hereto to enforce any of the provisions of this Agreement or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on its part of any such provision but the same shall, nevertheless, be and remain in full force and effect.

9. Communications hereunder shall be sent to Developer addressed as follows:

Pulte Home Corporation  
Attn: Mike Brilz, V.P. Planning & Development  
15111 N. Pima Road, Suite 100  
Scottsdale, Arizona 85260

or to such other address or addresses as Developer may advise Utility in writing, and to Utility at:

Arizona-American Water Company  
Attn: Director, Engineering  
19820 N. 7<sup>th</sup> Street, Suite 201  
Phoenix, Arizona 85024

or to such other address or addresses as Utility may advise Developer in writing.

10. Utility is not an agent for Developer and shall not incur any costs or expenses on behalf of Developer and Developer is not an agent for Utility and shall not incur any costs or expenses on behalf of Utility.

11. This Agreement shall be governed by the laws of the State of Arizona, and its performance shall be subject to such approvals of all regulatory agencies with jurisdiction.

12. This Agreement represents the entire understanding between the parties with respect to the subject matter herein and those which are reasonably related; there are no oral or collateral agreements with respect thereto between the parties. All changes or amendments to this Agreement must be in writing and signed by the parties hereto.

13. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective legal representatives, successors and assigns. However, Developer shall not assign its rights, obligations and interest in

this Agreement without the prior written consent of Utility, and any attempted assignment without such consent shall be void and of no effect. If the Wastewater Collection Facilities for the Development will be designed or constructed in two or more Phases, this Agreement applies to all such Phases.

14. Utility reserves the right to deem this Agreement null and void if Developer does not begin construction within one year from the date of this Agreement. If Developer has not started construction within one year from the date of this Agreement, Developer may issue a written request to Utility for an extension of this Agreement. Utility's response to said request for extension will not be unreasonably delayed. If Utility deems the Agreement null and void, Utility will send written notice of cancellation of Agreement to Developer via certified mail to the address shown in Paragraph VI.9.

15. Developer estimates a construction start date of July 1, 2006 and a construction completion date of December 31, 2013.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate originals, as of the day and year first above written.

Arizona-American Water Company  
an Arizona corporation

By: \_\_\_\_\_

Robert J. Kuta  
President

Pulte Home Corporation  
a Michigan Corporation

By: \_\_\_\_\_

Mike Brilz  
V.P. Planning & Development/  
Attorney in Fact

STATE OF ARIZONA     )  
                                      ) ss.  
County of Maricopa     )

The foregoing instrument was acknowledged before me this 3rd day of April, 2006, by Robert J. Kuta, President of Arizona-American Water Company, an Arizona corporation, on behalf of the corporation.

Karan L. Moore  
Name

Development Coordinator  
Title

My Commission expires:

May 1, 2009



STATE OF ARIZONA     )  
                                      ) ss.  
County of Maricopa     )

The foregoing instrument was acknowledged before me this 30th day of March, 2006, by Mike Brilz, Vice President of Planning and Development, Pulte Home Corporation, a Michigan corporation, on behalf of the corporation.

Suzan Boswell  
Name

Exec. Asst.  
Title

My Commission expires:

May 21, 2009



# Exhibit A

## LEGAL DESCRIPTION

(COMMITMENT FILE NO. 01329023)

LOTS 3 AND 4 AND THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 2 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THAT PORTION LYING WESTERLY OF THAT CERTAIN LINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 36;

THENCE NORTH 89 DEGREES 49 MINUTES 08 SECONDS WEST, ALONG THE MID-SECTION LINE OF SAID SECTION 36, 2090.00 FEET TO THE POINT OF BEGINNING OF THE LINE TO BE DESCRIBED, HEREIN;

THENCE SOUTH 24 DEGREES 25 MINUTES 35 SECONDS WEST, 1324.48 FEET TO THE POINT OF ENDING OF SAID LINE ON THE NORTH-SOUTH MID-SECTION LINE OF SAID SECTION 36, SAID POINT BEING NORTH 00 DEGREES 02 MINUTES 28 SECONDS WEST, 1473.86 FEET FROM THE SOUTH QUARTER CORNER OF SAID SECTION 36.

## LEGAL DESCRIPTION

(COMMITMENT FILE NO. 01329024)

THE NORTH HALF, AND THE NORTH HALF OF THE SOUTHWEST QUARTER, OF SECTION 36, TOWNSHIP 2 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;

EXCEPT THE EAST HALF OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 36; AND

EXCEPT THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 36; AND

EXCEPT THAT PORTION OF THE NORTH HALF OF SAID SECTION 36, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST-WEST MID-SECTION LINE OF SAID SECTION 36, WHICH POINT BEARS SOUTH 89 DEGREES 46 MINUTES 11 SECONDS WEST, 2090.00 FEET FROM THE EAST QUARTER CORNER, THEREOF;

THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS EAST, 1000.00 FEET;

THENCE NORTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, 1300.00 FEET;

THENCE SOUTH 45 DEGREES 00 MINUTES 00 SECONDS WEST, 1877.87 FEET;


THENCE SOUTH, 304.60 FEET TO THE AFORESAID EAST-WEST MID-SECTION LINE;

THENCE NORTH 89 DEGREES 46 MINUTES 11 SECONDS EAST, ALONG THE SAID EAST-WEST MID-SECTION LINE, 1540.00 FEET TO THE POINT OF BEGINNING; AND

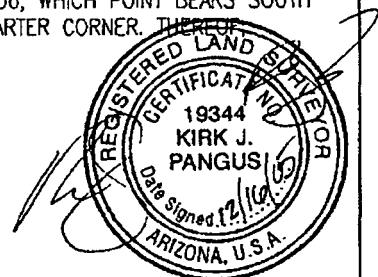
EXCEPT ALL MINERAL DEPOSITS AND RIGHTS AS RESERVED BY THE STATE OF ARIZONA IN DEED RECORDED IN DOCKET 427, PAGE 469, MARICOPA COUNTY RECORDS, AND AS SET FORTH IN PATENT FROM THE UNITED STATES OF AMERICA RECORDED IN DOCKET 2089, PAGE 257, MARICOPA COUNTY RECORDS.

## NOTES

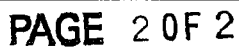
AREA IS 19,326,756 SQ. FT OR 443.6813 ACRES

CMX PROJ.	6785.00	<b>TESOTA HILLS</b>	7740 N. 16TH ST. STE.100 PHOENIX, AZ 85020 PH (602) 567-1900 FAX (602) 567-1901 www.cmxinc.com	
DATE:	11/2005			
SCALE:				
DRAWN BY:	GL			
CHECKED BY:	CMX			
		<b>LEGAL DESCRIPTION</b>		

Z:\6700\6785\6785-LEGAL-DESCR-EXHIBIT.dwg 12-08-2005 - 4:31pm



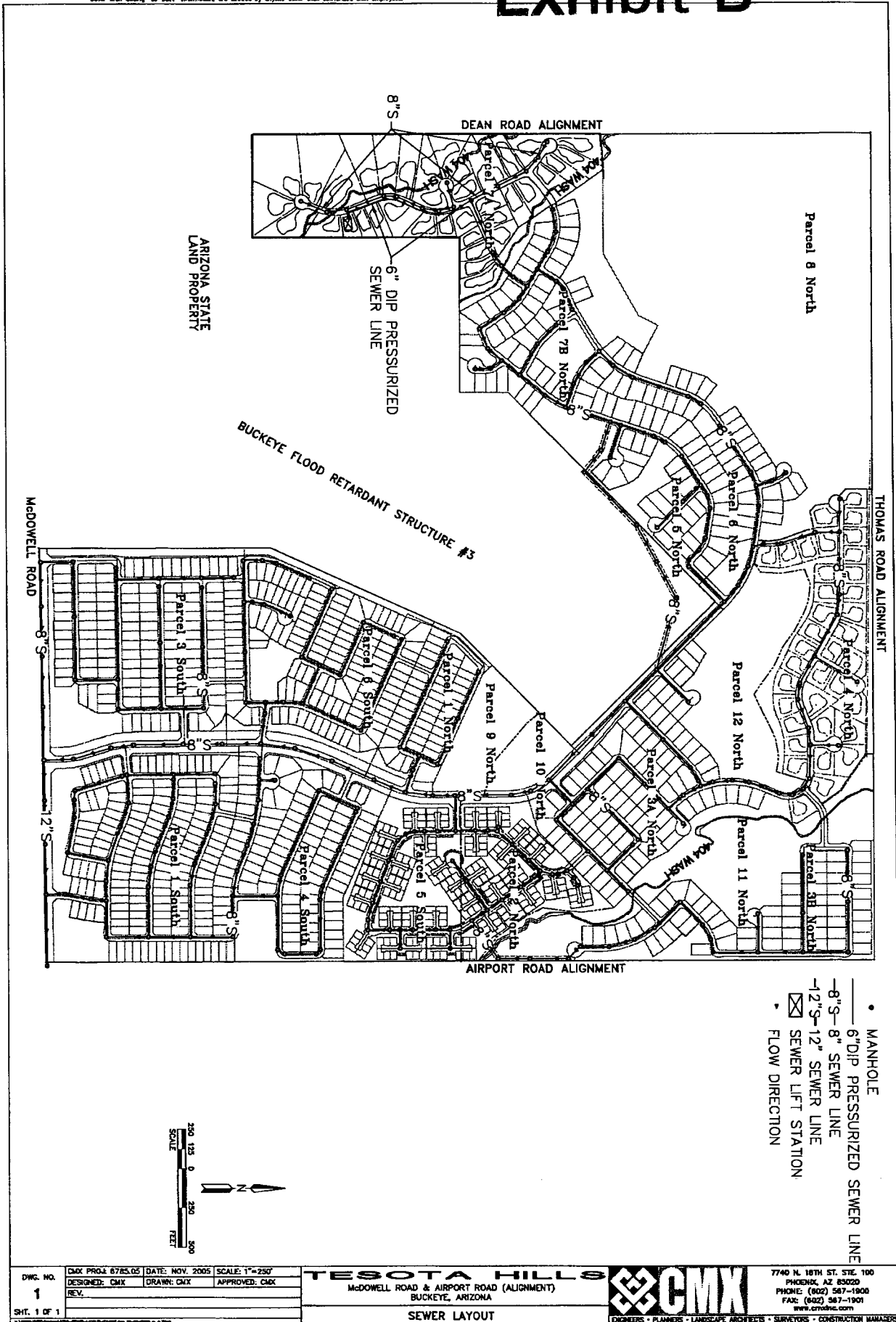
© Copyright, Orix 2005 - This plan document and its contents are the sole property of Orix. No alterations to these plans, other than adding "as-built" information, are allowed by anyone other than authorized Orix employees.





# Exhibit B

© Copyright, CMX 2005 - This plan document, set, is the sole property of CMX. No alterations to these plans, other than adding "as-built" information, are allowed by anyone other than authorized CMX employees.



DWG. NO.	CMX PROJ. 6785.05	DATE: NOV. 2005	SCALE: 1"=250'
1	DESIGNED: CMX	DRAWN: CMX	APPROVED: CMX
SHT. 1 OF 1	REV.		

**TESOTA HILLS**  
 McDOWELL ROAD & AIRPORT ROAD (ALIGNMENT)  
 BUCKEYE, ARIZONA  
 SEWER LAYOUT



7740 N. 18TH ST. STE. 100  
 PHOENIX, AZ 85020  
 PHONE: (602) 567-1800  
 FAX: (602) 567-1901  
 WWW.CMX-INC.COM

# Exhibit B



**Tesota Hills (Sewer)**  
211th Avenue & McDowell Road  
Buckeye, Arizona  
**Summary**

January 27, 2006

DESCRIPTION	QTY	UNIT	UNIT PRICE	Cost
Plan Review and Processing Fees	13	EA	\$ 200.00	\$ 2,600.00
Consultant Services Fees	1	LS	\$ 321,930.85	\$ 321,930.85
Construction Testing	1	LS	\$ 66,426.29	\$ 66,426.29
<b>Wet Utilities</b>				
Wastewater Lift Station	1	LS	\$ 35,000.00	\$ 35,000.00
12" Sewerline	1400	LF	\$ 48.00	\$ 67,200.00
8" Sewerline	54006	LF	\$ 26.00	\$ 1,404,156.00
6" Force Main	1080	LF	\$ 20.00	\$ 21,600.00
4' Manholes Standard	130	EA	\$ 2,450.00	\$ 318,500.00
5' Manholes Standard	74	EA	\$ 2,900.00	\$ 214,600.00
4" Services	1017	EA	\$ 535.00	\$ 544,095.00
Air Test Manholes	204	EA	\$ 125.00	\$ 25,500.00
Camera Test Sewer	56486	LF	\$ 0.65	\$ 36,715.90
Miscellaneous Cleanup	56486	LF	\$ 0.50	\$ 28,243.00
Sales Tax	4.095%	OF	\$ 2,695,609.90	\$ 110,385.23
<b>Total Anticipated Development Costs</b>				<b>\$ 3,196,952.26</b>

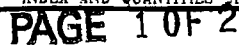
DESCRIPTION	COST
Parcel 1 South	\$ 373,556.41
Parcel 2 North	\$ 151,292.39
Parcel 3 South	\$ 324,756.40
Parcel 3A North	\$ 259,536.69
Parcel 3B North	\$ 223,482.55
Parcel 4 North	\$ 152,049.66
Parcel 4 South	\$ 258,876.93
Parcel 5 South	\$ 135,451.58
Parcel 5 North	\$ 131,845.58
Parcel 6 North	\$ 129,959.81
Parcel 6 South	\$ 324,692.06
Parcel 7A South	\$ 54,149.87
Parcel 7B North	\$ 190,436.92
<b>Subtotal</b>	<b>\$ 2,710,086.86</b>

Description	Cost
Infrastructure	\$ 486,865.41

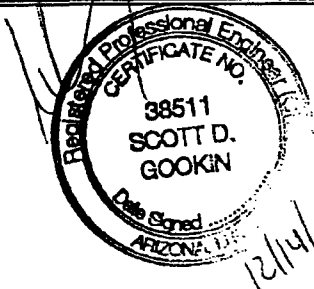
**Grand Total**

**\$ 3,196,952.26**





# Exhibit C

<b>McDowell Road</b>					
<b>Preliminary Opinion of Probable Infrastructure Costs</b>					
<b>Project Name</b>		<b>McDowell Road SEWER</b>			
<b>Project ID</b>		<b>052490</b>			
Length of Project		4,729 LF			
Length of Lateral Stubs		1,132 LF			
Road Classification		-			
B/C Width		- FT			
Section depth		- IN			
Dry Utility Trench		-			
<b>ITEM</b>	<b>DESCRIPTION</b>	<b>QTY</b>	<b>UNIT</b>	<b>Price</b>	<b>TOTAL</b>
<b>4.0 SEWER</b>					
	8" Sewer	1,132	LF	\$ 25.00	\$ 28,300
	15" Sewer	1,403	LF	\$ 36.30	\$ 50,929
	18" Sewer	3,326	LF	\$ 55.40	\$ 184,260
	4' Dia. Sewer Manhole	14	EA	\$ 2,000.00	\$ 28,000
	Connect to ex. sewer line	1	EA	\$ 1,000.00	\$ 1,000
	<b>SUBTOTAL</b>				<b>\$ 292,489</b>
<b>TOTAL CONSTRUCTION COST</b>					<b>\$ 292,489</b>
	+ DESIGN FEES	9.0%			\$ 26,300
	+ CONSTRUCTION MANAGEMENT	4.0%			\$ 11,700
	+ CONTRACTING SALES TAX	5.0%			\$ 14,600
	+ MOBILIZATION	0.4%			\$ 1,200
	+ STAKING & AS-BUILTS	3.0%			\$ 8,800
	+ TRAFFIC CONTROL	0.5%			\$ 1,300
	+ PERMIT/ INSPECTION FEES	3.0%			\$ 8,800
	+ PLAN REVIEW FEES	0.5%	45.4%		\$ 1,500
	+ CONTINGENCIES	20.0%			\$ 58,500
<b>TOTAL COST FOR SEGMENT McDowell Road SEWER</b>					<b>\$ 426,000</b>
Total cost per lineal foot				\$	90

Offered without the benefit of plans and specifications, subject to change.

## EXHIBIT "D"

### Cost Estimate for Common Facilities

#### Verrado WRF Expansion

ENGINEERING COSTS				
Item	Unit	Quantity	Unit Price (\$)	Total (\$)
Engineering	LS	1	727,500	727,500
AAW Labor	LS	1	35,000	35,000
			Eng. Subtotal	762,500
CONSTRUCTION COSTS				
Influent Pump Station	LS	1	356,500	356,500
Influent Screen and Grit	LS	1	578,000	578,000
Influent Equalization Basin	LS	1	32,000	32,000
Anoxic Zones	LS	1	1021,000	1021,000
Bioreactor – Oxidic Zones	LS	1	256,000	256,000
Activated sludge and Scum Pump Station	LS	1	247,000	247,000
Clarifiers	LS	1	1790,000	1790,000
Finished Influent pump Station and Splitter Box	LS	1	231,000	231,000
Disc Filters	LS	1	523,000	523,000
Disinfection	LS	1	302,000	302,000
Effluent Pump Station	LS	1	343,000	343,000
Sludge Holding Tank	LS	1	301,000	301,000
Odor Control	LS	1	227,000	227,000
Site Work and Miscellaneous Yard Piping	LS	1	106,000	106,000
Electrical Upgrade	LS	1	723,000	723,000
			Construction Subtotal	7,036,500
			Total Cost	7,799,000

## **EXHIBIT "D"**

### **Cost Estimate for Common Facilities**

Equivalent Residential Units (ERUs) to be served by the Verrado WRF expansion = 3,667 ERUs  
(1.1MGD/100 gpcd/3.0 capita per ERU)

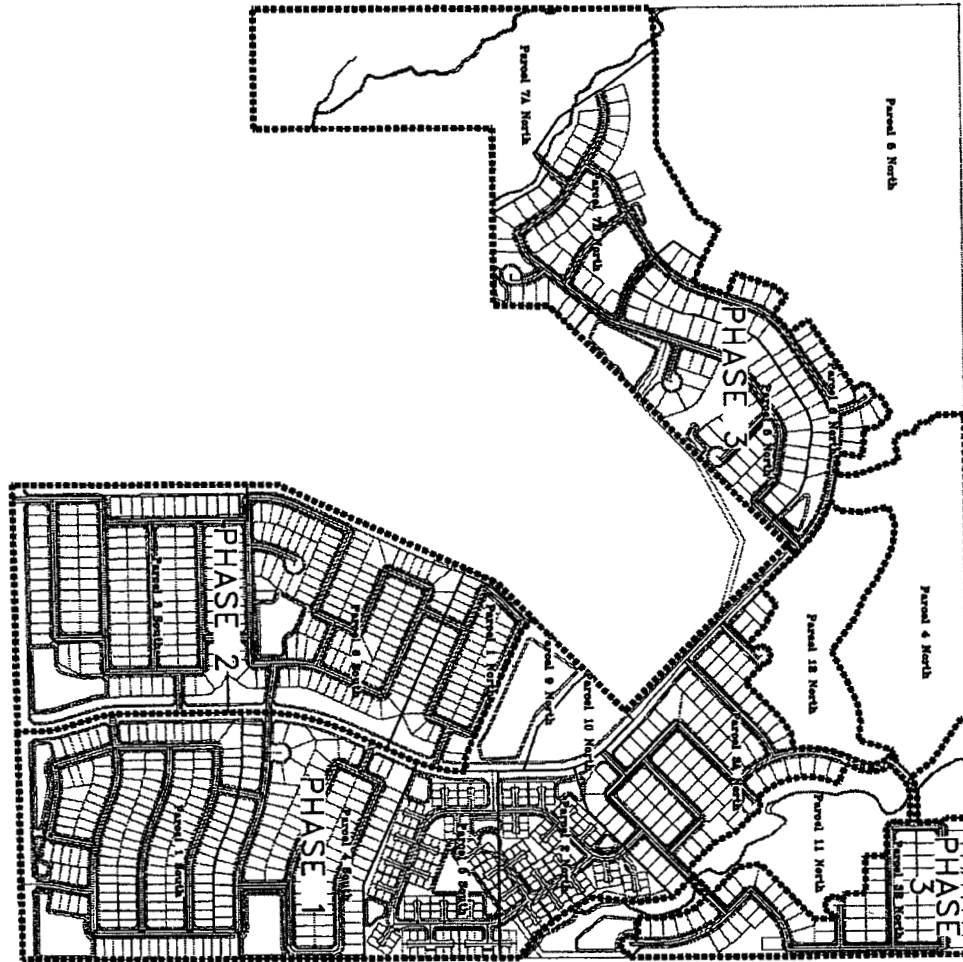
Cost Per ERU =  $\$7,799,000 \div 3,667 = \$2,127/\text{ERU}$

**Developer's portion for Verrado WRF Expansion =  $\$2,127 \times 1070 \text{ lots} = \$ 2,275,890$**

The following are the assumptions made for the calculations:

- a. WRF expansion of 1.1 MGD
- b. Average per Capita Waste Water Demand in Verrado = 100 gpcd
- c. The Average number of people per ERU = 3 persons/ERU for typical residential units, 4 units per acre or less.

# Exhibit E



DWG. NO. <b>1</b> SHT. 1 OF 1	CMX PROJ: 8785.00 DATE: 11/2005 SCALE: 1"=300'		
	DESIGNED: CMX	DRAWN: RAL	APPROVED: CMX
	REV.		

**TESOTA HILLS**

BUCKEYE, ARIZONA

EXHIBIT E: PHASING



7740 N. 18TH ST. STE. 100  
PHOENIX, AZ 85020  
PHONE: (602) 567-1900  
FAX: (602) 567-1901  
www.cmxinc.com

ENGINEERS • PLANNERS • LANDSCAPE ARCHITECTS • SURVEYORS • CONSTRUCTION MANAGERS

G



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

[RESTATED]  
OPTION AND LEASE AGREEMENT  
  
AMONG  
  
THE AK-CHIN INDIAN COMMUNITY  
  
THE UNITED STATES OF AMERICA  
  
AND  
  
DEL WEBB CORPORATION  
  
  
  
  
  
  
  
Phoenix, Arizona

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26

3  
4  
5  
6  
7

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1 Indians and non-Indian Water Users and Related Decisions" which was published in 48  
2 Fed. Reg. 12446, March 24, 1983, as is necessary to fulfill the Secretary's water  
3 delivery obligation to the Community. The 1984 Act provides that Central Arizona  
4 Project water to be delivered to the Community is to be delivered as provided in the  
5 December 11, 1980, Central Arizona Project water delivery contract between the United  
6 States and the Community, except as is otherwise provided by the 1984 Act and any  
7 contract executed pursuant to the 1984 Act.

8 C. On October 2, 1985, the United States and the Community entered into an  
9 agreement entitled "Contract Between the United States and the Ak-Chin Indian  
10 Community To Provide Permanent Water and Settle Interim Water Rights" (hereinafter  
11 "the Settlement Agreement") for the purpose of implementing the 1984 Act.

12 D. In 1992, the Community sought and obtained the introduction of S. 2507  
13 before the Congress of the United States. Subsequent to a hearing before the Senate  
14 Select Committee on Indian Affairs, S. 2507 was incorporated into H.R. 5686, which  
15 was enacted on October 24, 1992, and which amended the 1984 Act to permit the  
16 Community to lease, to enter into options to lease, to extend leases, and to exchange or  
17 temporarily to dispose of water to which it is entitled under the 1984 Act for beneficial  
18 use within the Pinal, Phoenix and Tucson Active Management Areas, which were  
19 established in 1980 by Arizona Revised Statutes § 45-411, for periods not to exceed 100  
20 years. The 1992 amendment of the 1984 Act is set forth in Section 10 of Public Law  
21 102-497 (106 Stat. 3258), which was enacted on October 24, 1992.

22 E. Del Webb is a Delaware corporation, whose shares are publicly traded and  
23 whose principal offices are located at Phoenix, Arizona. Del Webb is one of the  
24 nation's leading developers of active adult communities. The Company has built and  
25 sold more than 40,000 homes at its Sun City communities over the past 30 years. The  
26 Company designs, develops and markets these large-scale, master-planned residential

1 communities for active adults, controlling all phases of the master plan development  
2 process from land selection through construction and selling of homes. The Company  
3 developed Sun City near Phoenix, Arizona, and it is currently selling homes at Sun City  
4 West, two miles west of Sun City; Sun City, Tucson; Sun City, Las Vegas; and Sun  
5 City, Palm Springs. The Company is pursuing development opportunities in Austin,  
6 Texas; Roseville, California; and Hilton Head, South Carolina. The Company is also a  
7 master developer of conventional planned communities such as The Foothills in  
8 Phoenix, Arizona, and is master developer/builder of Terravita, a conventional planned  
9 community in Scottsdale, Arizona.

10 F. In 1992, the Company acquired a property in Maricopa County, Arizona,  
11 commonly known as the Lakeview Property (hereinafter "the Property") which is  
12 located approximately five miles east of Lake Pleasant, and which contains  
13 approximately 5,661 acres of land. Del Webb intends to develop the Property and, to do  
14 so, requires a reliable supply of surface water which can be made available to the  
15 Property for municipal and other uses for a period of 100 years. For the purpose of  
16 supplying water to the Property, and for the possible purpose of providing water to such  
17 other of the Company's developments as the Company determines require water, Del  
18 Webb must acquire the right to the use of between 6,000 and 10,000 acre-feet of surface  
19 water per annum for municipal and other purposes for a period of 100 years. Although  
20 the development of the Property is in an early stage and the requisite approvals  
21 governing land use, density and related matters have not yet been obtained, the  
22 Company wishes to obtain the right to lease a sufficient amount of the surface water  
23 made available to the Community pursuant to the 1984 Act and the Settlement  
24 Agreement to enable the Company to develop the Property, and possibly other  
25 properties, to the fullest potential, but without obligating the Company to lease the  
26

1 Community's water until the necessary approvals are obtained for the development of  
2 the Property and the Company's general water requirements are ascertained.

3 NOW, THEREFORE, for the foregoing purposes and for the consideration  
4 herein set forth, which the Community, the United States and the Company  
5 acknowledge to be adequate, the parties to this Agreement agree as follows:

6 AGREEMENTS

7 1. Effective Date of Agreement. This Agreement shall be effective, binding  
8 upon the parties, and enforceable according to its terms as of the latest date stated on the  
9 signature page of this Agreement (the "Effective Date"), which reflects the fulfillment  
10 of the following conditions:

11 A. The Company has executed this Agreement;

12 B. This Agreement has been accepted and ratified by a resolution of  
13 the Ak-Chin Community Council and executed by an authorized representative of the  
14 Community;

15 C. The Settlement Agreement has been amended to reflect and  
16 implement the 1992 amendment of the 1984 Act, and, as amended, the Settlement  
17 Agreement has been executed by the Community and the Secretary or his duly  
18 authorized representatives and is effective.

19 D. The Agreement has been approved and executed by the Secretary  
20 or his duly authorized representatives; and

21 E. The Company has paid to the Community the sum of \$300,000.

22 2. Grant of Option. On the Effective Date, the Community hereby grants to  
23 the Company, pursuant to this Agreement, the option to lease from the Community the  
24 right to the delivery and beneficial use of not less than 6,000 acre-feet per annum nor  
25 more than 10,000 acre-feet per annum of the surface water made available to the  
26

1 Community pursuant to Section 2 of the 1984 Act and Paragraphs 3 and 4 of the  
2 Settlement Agreement (hereinafter "the Settlement Water").

3           A.     The option herein granted may be exercised in the manner provided  
4 for in Paragraph 3 of this Agreement at any time through the later of December 31,  
5 1994, or the end of the 365th day after the Effective Date (hereinafter "the Initial  
6 Period"). If the option is not exercised as provided in this Paragraph 2.A and is not  
7 extended pursuant to Paragraph 2.B, the option shall lapse and be of no further effect.

8           B.     The option herein granted shall be extended for an additional  
9 period through the later of December 31, 1995, or the end of the 731st day after the  
10 Effective Date (hereinafter "the Extended Period") if the Company pays to the  
11 Community the sum of \$200,000 before the expiration of the Initial Period. The option  
12 herein granted, if thus extended, may be exercised in the manner provided for in  
13 Paragraph 3 at any time before the expiration of the Extended Period. If the option has  
14 been extended and is not exercised within the time provided in this Paragraph 2.B, the  
15 option shall lapse and be of no further effect.

16       3.     Exercise of Option. The Company may exercise the option herein granted  
17 at any time before the expiration of the Initial Period or the Extended Period by giving  
18 notice to the United States and the Community in the form prescribed in Exhibit "A" to  
19 this Agreement, which Exhibit "A" is hereby made a part hereof, that the Company has  
20 exercised the option. In the event the Company fails to exercise the option during the  
21 Initial Period or the Extended Period, this Agreement shall be of no further effect and all  
22 consideration paid by the Company to the Community shall be forfeited. In the event  
23 the Company exercises the option during the Initial Period, no portion of the  
24 consideration paid for the option shall be forfeited and the consideration paid shall be  
25 applied and credited in full in the manner provided in Paragraph 5.A.(3) of this  
26 Agreement. In the event Del Webb exercises the option during the Extended Period,

1 \$400,000 of the consideration paid by the Company for the option shall be applied and  
2 credited in the manner provided in Paragraph 5.A.(3) hereof, but the remaining amount  
3 of \$100,000 of the consideration paid by the Company for the option shall be forfeited.

4 4. Grant of Lease. Upon the exercise of the option by the Company, the  
5 Community hereby leases to the Company pursuant to this Agreement, for a term of 100  
6 years, or such longer period as is provided for in Paragraph 17 of this Agreement,  
7 beginning on the date the option is exercised, pursuant to Paragraph 3, by notice given  
8 pursuant to Paragraph 16.B, the right to the delivery and beneficial use of the number of  
9 acre-feet per annum of Settlement Water specified in the notice given by the Company  
10 to the United States and the Community in order to exercise the option, the form of  
11 which notice is attached as Exhibit "A" to this Agreement. The portion of the  
12 Settlement Water leased to the Company pursuant to this Agreement and specified in  
13 Exhibit "A" is herein referred to as the "Leased Settlement Water," except as is  
14 otherwise provided in Paragraph 5.C.

15 5. Consideration for Lease. In consideration for the Leased Settlement  
16 Water, the Company shall pay the following sums:

17 A. Water Lease Charges. The Company shall pay to the Community a  
18 one-time water lease charge (hereinafter the "Water Lease Charges") applicable to the  
19 full term of the lease which is equal to the result obtained by multiplying: (x) the  
20 number of acre-feet of Leased Settlement Water, which shall be specified in Exhibit  
21 "A" at the time that the option is exercised, by (y) an amount equal to \$1203, which  
22 amount shall be adjusted in direct proportion to the percentage change in the All Items  
23 Consumer Price Index for All Urban Consumers (1982-84 = 100) for All Cities  
24 published by the Department of Labor ("CPI-U") which occurs between the index  
25 published for the month of January, 1994, and the index published for the month in  
26 which the option is exercised. An example showing the manner in which the

1 adjustment required by this Paragraph 5.A shall be made, and the manner in which the  
2 total of the Water Lease Charges shall be calculated, is attached hereto as Exhibit "B,"  
3 which Exhibit "B" is hereby made a part hereof. In the event the CPI-U index is  
4 discontinued or is not otherwise available as of the date the option is exercised,  
5 comparable statistics on the purchasing power of the consumer dollar, as agreed upon  
6 between the Company and the Community, shall be substituted for such index in  
7 making the required adjustment. In the event the Company and the Community cannot  
8 agree upon the statistics that are considered to be comparable to the CPI-U index or  
9 upon the amount of the adjustment, the comparable statistics shall be selected, and the  
10 appropriate adjustment made, by the Secretary, whose determination shall be conclusive  
11 upon the Company and the Community.

12 (1) At the election of the Company, the Water Lease Charges  
13 shall be paid in full (without interest) either within 30 days of the exercise of the option,  
14 or, in ten equal annual installments of principal, with interest as hereinafter provided,  
15 the first of which installments shall be due and payable on the anniversary of the date on  
16 which the option is exercised, and the remaining installments of which shall be due and  
17 payable on the same date of each year thereafter until the Water Lease Charges are paid  
18 in full. In the event the Company does not pay the Water Lease Charges in full within  
19 30 days of the exercise of the option, the Company shall have elected to pay the Water  
20 Lease Charges in ten equal annual installments of principal.

21 (2) Interest shall accrue on the outstanding balance of the Water  
22 Lease Charges from time to time, beginning on the 31st day following the date of the  
23 exercise of the option, at the Prime Rate (defined below) in effect on such 31st day, and  
24 the interest rate on the outstanding balance shall change from time to time on the  
25 effective date of, and in accordance with, changes in the Prime Rate, provided, that in  
26 no event shall the rate of interest charged on the outstanding balance of the Water Lease



1 Charges be less than 6% per annum nor more than 8% per annum calculated on the  
2 basis of actual days elapsed and 365-day years. For purposes of this Agreement, the  
3 term "Prime Rate" shall mean the per annum interest rate designated by Bank One  
4 Arizona as its "prime rate," abase rate," or "reference rate" for commercial-loans as  
5 publicly announced from time to time. Accrued interest shall be due and payable  
6 annually, at the same time as the Water Lease Charges installment is due and payable,  
7 until the unpaid balance of the Water Lease Charges is paid in full. The unpaid balance  
8 of the Water Lease Charges may be prepaid at any time, together with accrued interest  
9 to date, and such a payment will satisfy the Water Lease Charges in full.

10 (3) That portion of the consideration paid by the Company for  
11 the option which is not forfeited shall be applied, as of the date of the exercise of the  
12 option, against the total balance of Water Lease Charges due and shall be credited and  
13 deducted from the first annual installment payment of the Water Lease Charges,  
14 including interest accrued thereon.

15 B. Water Use Charges. Subsequent to the exercise of the option, and  
16 in addition to the Water Lease Charges, the Company shall pay to the Community a  
17 charge for the use of the Leased Settlement Water (hereinafter "Water Use Charge"),  
18 which Water Use Charge shall be determined as follows:

19 (1) During the first five years after the exercise of the option,  
20 the Water Use Charge shall be \$53.00 for each acre-foot of Leased Settlement Water  
21 scheduled by the Company for delivery as provided in this Agreement;

22 (2) During the sixth (6th) through the tenth year (10th) after the  
23 exercise of the option, the Water Use Charge shall be \$65.00 for each acre-foot of  
24 Leased Settlement Water scheduled by the Company for delivery as provided in this  
25 Agreement;

26

1                   (3) During the eleventh (11th) through the fifteenth (15th) year  
2 after the exercise of the option, the Water Use Charge shall be \$83.00 for each acre-foot  
3 of Leased Settlement Water scheduled by the Company for delivery as provided by this  
4 Agreement; and

5                   (4) During the sixteenth (16th) through the twentieth (20th) year  
6 after the exercise of the option, and during each five-year period thereafter through the  
7 end of the lease term, the Water Use Charge for each acre-foot of Leased Settlement  
8 Water scheduled by the Company for delivery shall be equal to the sum of the fixed and  
9 variable operation, maintenance and replacement costs which would be charged by the  
10 United States or the Central Arizona Water Conservation District or their successors, for  
11 the delivery of an acre-foot of Central Arizona Project non-Indian municipal and  
12 industrial water to the turn-out of the Maricopa Water District in the Central Arizona  
13 Project Aqueduct as of the first day of the sixteenth (16th) year after the exercise of the  
14 option, and as of the first day of each successive five-year period thereafter.

15                   (5) Water Use Charges shall be due and payable at the times  
16 and in the manner prescribed in Paragraph 8.D of this Agreement.

17                   C. Minimum Use. The Company cannot accurately forecast at present  
18 either the precise amount of Settlement Water which it will need to lease nor the precise  
19 rate at which demand will develop for the Leased Settlement Water. Further, the  
20 Company cannot commit to pay Water Use Charges for Leased Settlement Water which  
21 the Company does not schedule for delivery. In contrast, the Community wishes to  
22 assure itself of a stream of revenues over the next 100 years and does not wish to lease  
23 more water to any lessee than is actually used by a lessee, within the normal variances  
24 of use which would be experienced by any water user by reason of above-normal  
25 precipitation, cool weather, or other natural conditions. Accordingly, the Community  
26

1 and the Company, having balanced these concerns, specify that minimum use of Leased  
2 Settlement Water shall be as follows:

3 (1) The Company shall use an average of sixty percent (60%) of  
4 the Leased Settlement Water in each five-year period beginning on January 1, 2015,  
5 through the end of the lease term, where the average use is calculated once every five  
6 years at the end of the five-year period, and not continuously, and where years in which  
7 Leased Settlement Water is unavailable to the Company by reason of drought, failure of  
8 the facilities or works of the Central Arizona Project, or similar circumstances, are  
9 excluded from the calculation of average use. All uses of Leased Settlement Water,  
10 including uses by sublessees and assignees, shall be included for purposes of calculating  
11 whether the Company has used an average of sixty percent (60%) of the Leased  
12 Settlement Water in each such five-year period. The calculation required by this  
13 subparagraph (1) shall be prepared by the Company and submitted to the Community,  
14 with a copy to the United States, on or before January 31, 2020, and on or before the  
15 31st day of January following the end of each five-year period thereafter.

16 (2) At the end of the first five-year period subsequent to  
17 January 1, 2015, in which the calculation made pursuant to subparagraph (1) of this  
18 Paragraph 5.C shows that the Company has failed to use the average quantity of Leased  
19 Settlement Water required to be used during the five-year period, the Company may  
20 elect, within thirty days of the date on which the calculation required by subparagraph  
21 (1) is submitted to the Community, either to surrender to the Community the right,  
22 during the remaining term of this Agreement, to lease thirteen percent (13%) of the  
23 amount of Leased Settlement Water as specified in Exhibit "A" to this Agreement, or,  
24 the Company may elect to pay to the Community, a sum of money calculated as  
25 follows:  
26

1 (i) Determine the total amount of the Water Use Charge  
2 the Company would have paid during the five-year period if it had used sixty percent  
3 (60%) of the Leased Settlement Water in each year in the five-year period;

4 (ii) From the result obtained in (i), subtract the total  
5 amount of the Water Use Charge actually paid by the Company to the Community  
6 during the five-year period;

7 (iii) The difference obtained in (ii), above, shall equal the  
8 additional amount of money to be paid to the Community for the five-year period.

9 (3) The Company may make the election described in  
10 subparagraph (2) of this Paragraph 5.C by giving the United States and the Community  
11 notice of the election, and, if the Company elects to make the payment determined in  
12 the manner provided for in subparagraphs (2)(i) through (iii) of this Paragraph 5.C, the  
13 Company shall make the payment at the time it notifies the Community and the United  
14 States of its election and the Company shall retain the right to lease the amount of  
15 Leased Settlement Water specified in Exhibit "A." In the event the Company fails to  
16 make the election provided for in subparagraph (2) within the time provided for making  
17 the election, the United States and Community, by notice to the Company, shall, as their  
18 sole remedy, reduce the amount of Leased Settlement Water as specified in Exhibit "A"  
19 by thirteen percent (13%) for the remaining term of this Agreement.

20 (4) At the end of the next five-year period subsequent to the  
21 period described in subparagraph (2) in which the calculation made pursuant to  
22 subparagraph (1) of this Paragraph 5.C shows that the Company has failed to use the  
23 average quantity of Leased Settlement Water (as specified in Exhibit "A") required by  
24 subparagraph (1) to be used during the five-year period, the Company may make the  
25 same election that is provided for in subparagraph (2), within the time provided in  
26 subparagraph (2), failing which the United States and the Community, by notice to the

1 Company, shall, as their sole remedy, reduce the amount of Leased Settlement Water  
2 (as specified in Exhibit "A") by an additional thirteen percent (13%) for the remaining  
3 term of this Agreement.

4 (5) At the end of the next five-year period subsequent to the  
5 period described in subparagraph (4) in which the calculation made pursuant to  
6 subparagraph (1) of this Paragraph 5.C shows that the Company has failed to use the  
7 average quantity of Leased Settlement Water (as specified in Exhibit "A") required by  
8 subparagraph (1) to be used during the five-year period, the Company may make the  
9 same election that is provided for in subparagraph (2), within the time provided in  
10 subparagraph (2), failing which the United States and the Community, by notice to the  
11 Company, shall, as their sole remedy, reduce the amount of Leased Settlement Water  
12 (as specified in Exhibit "A") by an additional thirteen percent (13%) for the remaining  
13 term of this Agreement.

14 (6) In any five-year period subsequent to the period described in  
15 subparagraph (5) in which the Company fails to use the average amount of Leased  
16 Settlement Water calculated pursuant to subparagraph (1) of this Paragraph 5.C, the  
17 Company shall elect, within 30 days of the end of such period, either to pay to the  
18 Community, at the end of such period, an amount determined in the manner provided  
19 for in subparagraphs (2)(i) through (iii) of this Paragraph 5.C, or to terminate this  
20 Agreement, failing which the United States and Community may, as their sole remedy,  
21 terminate this Agreement.

22 (7) In the event that the amount of Leased Settlement Water  
23 which the Company is entitled to lease pursuant to this Agreement is reduced as  
24 provided for in this Paragraph 5.C, the term "Leased Settlement Water," subsequent to  
25 any such reduction, shall mean the number of acre-feet of Leased Settlement Water  
26 remaining after the reduction is made, except as is otherwise required by this Paragraph

1 for purposes of calculating the amount of any reductions pursuant to subparagraphs (4)  
2 and (5).

3 (8) Other than as is provided in this Paragraph 5.C, nothing in  
4 this Agreement shall be construed as requiring the Company to pay a Water Use Charge  
5 for water which is not scheduled for delivery or to schedule any water for delivery in  
6 any year or years.

7 D. Additional Charges in Times of Shortage. The Company shall pay  
8 to the Community for Leased Settlement Water which is scheduled for delivery during a  
9 time of shortage, as defined in this Paragraph 5.D, an additional charge, the amount of  
10 which (z) shall be equal to the result obtained by multiplying (x) times (y), where (x) is  
11 the number of acre-feet of Central Arizona Project municipal and industrial water which  
12 would not have been delivered to the Company in that year (i) if the Company had been  
13 a non-Indian M&I subcontractor of the Central Arizona Project; (ii) if the Company's  
14 entitlement to Leased Settlement Water hereunder were, instead, an entitlement to  
15 Central Arizona Project municipal and industrial water; and (iii) if the Company, as a  
16 municipal and industrial subcontractor of the Central Arizona Project, had attempted to  
17 schedule for delivery in such year the same amount of water which the Company has  
18 scheduled for delivery during such year pursuant to this Agreement, and where (y) is the  
19 amount of the per acre-foot water service capital charge which a municipal and  
20 industrial water service subcontractor of the Central Arizona Project would pay for an  
21 acre-foot of Central Arizona Project municipal and industrial water delivered to the  
22 Maricopa Water District turnout on the Central Arizona Project Aqueduct in each year  
23 in which Leased Settlement Water is scheduled for delivery during a time of shortage.  
24 If the time of shortage exists for less than a year, the additional charge for the year shall  
25 be prorated for the portion of the year during which the time of shortage exists. The  
26 additional charge shall be payable each year during the time of shortage at the times and

1 in the manner provided in Paragraph 8.D.(3) of this Agreement. Such additional charge,  
2 although measured by and equal to the per-acre-foot water service capital charge  
3 payable by a non-Indian municipal and industrial water subcontractor of the Central  
4 Arizona Project, shall not be considered to be such a capital charge either for purposes  
5 of this Agreement or for any other purpose and shall be the property of the Community  
6 as additional compensation to the Community for Leased Settlement Water which is  
7 scheduled for delivery during a time of shortage, as herein defined. In the event the  
8 time of shortage occurs subsequent to the payout of the Central Arizona Project, the  
9 additional charge per acre-foot shall equal the per acre-foot water service capital charge  
10 payable by a non-Indian municipal and industrial water subcontractor of the Central  
11 Arizona Project for an acre-foot of municipal and industrial water delivered to the  
12 Maricopa Water District turnout on the Central Arizona Project Aqueduct on the first  
13 day of the year in which the payout of the Central Arizona Project occurs, adjusted in  
14 direct proportion to the percentage change in the CPI-U index which occurs between the  
15 index published closest to the date on which the payout of the Central Arizona Project  
16 occurs and the index published for the month in which the time of shortage begins. The  
17 additional charge shall be adjusted in the manner prescribed in the preceding sentence  
18 on each anniversary of the commencement of the time of shortage during which the  
19 time of shortage persists. In the event the CPI-U is not published at the time any  
20 adjustment is required to be made, the appropriate index shall be selected in the manner  
21 provided by Paragraph 5.A. For purposes of this Agreement, "time of shortage" does  
22 not have the meaning set forth in the 1984 Act or in the Settlement Agreement, and  
23 means, instead, any time or times in which the annual amount of water available for  
24 delivery to non-Indian municipal and industrial subcontractors of the Central Arizona  
25 Project is equal to an average of 79% or less of the subcontractual entitlements of such  
26 subcontractors and where the reduction is not caused by operational shut-downs of the

1 Central Arizona Project, by Central Arizona Project system failure, or by other  
2 operating conditions. The above definition of shortage is only for the purpose of this  
3 Agreement and is not intended as a standard shortage criteria for either the Central  
4 Arizona Project or the management of the Colorado River.

5 E. No Other Charges. The Company shall not be obligated to pay  
6 Central Arizona Project water service capital charges, Central Arizona Project  
7 operation, maintenance and replacement charges, or any charges or costs in the nature  
8 of such charges (hereinafter "Other Charges") for the delivery of Leased Settlement  
9 Water pursuant to this Agreement, and the charges set forth and required to be paid by  
10 this Paragraph 5 are the only charges which either the United States or the Community  
11 may impose upon the Company with respect to the delivery of Leased Settlement Water  
12 pursuant to this Agreement. In the event the United States fails or refuses to appropriate  
13 funds to pay the operation, maintenance and replacement charges which are associated  
14 with the Leased Settlement Water, the Company may pay Other Charges to the United  
15 States in order to assure the continuing delivery of Leased Settlement Water pursuant to  
16 this Agreement, and it may pay such Other Charges without being considered to be in  
17 default under this Agreement. The Company may set off the amount of Other Charges  
18 paid to the United States against the Water Use Charge payable to the Community  
19 pursuant to Paragraph 5.C by deducting from its payment of the Water Use Charge next  
20 coming due an amount equal to the amount of the Other Charges paid to the United  
21 States by the Company in that year. Such deduction and set off by the Company shall  
22 not be considered to be a breach of or default under this Agreement, and this Agreement  
23 shall continue in effect notwithstanding such deduction and set off. Nothing in this  
24 Paragraph 5.E shall be construed as affecting the Community's right to bring suit against  
25 the United States for breach of the 1984 Act, the Settlement Agreement, or of this  
26 Agreement, nor shall anything in this Agreement be construed as a limitation on the



1 Company's right to bring suit against the United States for review of any action by the  
2 Secretary hereunder or for damages the Company may incur as a result of the United  
3 States' failure to appropriate funds to pay the operation, maintenance and replacement  
4 charges associated with the Leased Settlement Water or the Settlement Water. In the  
5 event the United States and the Community, at any time in the future, enter into an  
6 agreement pursuant to which the United States' obligation to provide Settlement Water  
7 for the Community at no cost to the Community is liquidated, that portion of the  
8 liquidated amount which is necessary to fund the operation, maintenance and  
9 replacement charges associated with the delivery of Leased Settlement Water shall be  
10 reserved by the United States and the Community and used exclusively for the purpose  
11 of funding and paying the operation, maintenance and replacement charges which are  
12 associated with the delivery of Leased Settlement Water pursuant to this Agreement.

13 6. Place of Use and Use of Water. The Company shall have the right to use  
14 the Leased Settlement Water made available pursuant to this Agreement for any purpose  
15 permitted by applicable law, including, without limitation, for direct and indirect  
16 groundwater recharge and for exchanges. The Company may use Leased Settlement  
17 Water at any place permitted by law north of the turnout from the main aqueduct of the  
18 Central Arizona Project into the Santa Rosa Canal, excluding the incorporated limits of  
19 the City of Scottsdale as of the Effective Date; provided, however, that Leased  
20 Settlement Water may be used within the incorporated limits of the City of Scottsdale  
21 ("Scottsdale") as of the Effective Date under either of the following conditions: (i) the  
22 Subcontract among the United States, the Central Arizona Water Conservation District,  
23 and the Town of Payson, subcontract No. 2-07-30-W0281, is not transferred to  
24 Scottsdale and the entitlement thereof is not included in the entitlement of Scottsdale  
25 under Central Arizona Project water service subcontract No. 5-07-30-W0063 among the  
26 United States, CAWCD and Scottsdale by January 1, 1995, in which event up to and

1 including 4,995 acre-feet of Leased Settlement Water may be used within the  
2 incorporated limits of the City of Scottsdale; or (ii) the settlement of the water rights  
3 claims of the San Carlos Apache Indian Tribe as authorized by the San Carlos Apache  
4 Indian Tribe Water Rights Settlement Act of 1992, Title XXXVII of Public Law 102-  
5 575 (October 30, 1992), is not finalized by December 31, 1996, in which event up to  
6 and including 10,000 acre-feet of Leased Settlement Water may be used within the  
7 incorporated limits of Scottsdale. Leased Settlement Water may be used in any amount  
8 within areas that are added to the incorporated limits of Scottsdale subsequent to the  
9 Effective Date at any time or times during the period in which this Agreement is in  
10 effect.

11 7. Points and Rates of Delivery.

12 A. Points of Delivery. The Leased Settlement Water made available  
13 pursuant to this Agreement shall initially be delivered by the United States to diversion  
14 facilities to be constructed by the Company or the United States, at the Company's  
15 expense, in Lake Pleasant, and, subject to Paragraph 6 regarding place of use, shall be  
16 delivered by the United States to such other or additional point or points of delivery  
17 along the main Aqueduct of the Central Arizona Project as the Company may from time  
18 to time designate in the schedules which are submitted by the Company pursuant to  
19 Paragraph 8 of this Agreement. No Leased Settlement Water may be diverted from  
20 Lake Pleasant pursuant to this Agreement until the Company has submitted to the  
21 United States (Bureau of Reclamation) plans for the construction and operation of such  
22 diversion facilities and the United States has approved such plans. Nothing in this  
23 Agreement shall be construed as granting the Company the right to store water in Lake  
24 Pleasant.

25 B. Rates of Delivery. Leased Settlement Water made available to the  
26 Company pursuant to this Agreement shall be delivered to the Company at the delivery

1 points and at such rates of delivery as the Company may specify; provided, however,  
2 that in no event shall the total of the rates of delivery to all points of delivery designated  
3 by the Company exceed a rate in cubic feet per second which is determined by  
4 multiplying a fraction, the numerator of which shall be the number of acre-feet of  
5 Leased Settlement Water and the denominator of which shall be 75,000, times 300, and  
6 where the product so obtained is the maximum rate of delivery of Leased Settlement  
7 Water in cubic feet per second to which the Company is entitled to the aggregate of  
8 delivery points specified by the Company. The Company may allocate delivery rates  
9 among delivery points, provided that the sum of all delivery rates to all points of  
10 delivery shall not exceed the maximum rate of delivery determined in this Paragraph  
11 7.B.

12 8. Scheduling.

13 A. On or before October 1 of the year in which the option is exercised  
14 or, if the option is exercised after October 1 but before December 31, then on or before  
15 October 1 of the subsequent year (except as otherwise provided in Paragraph 8.D.4  
16 hereof), and October 1 of each year thereafter, the Company shall submit to the  
17 Community, with a copy to the United States, a written water delivery schedule setting  
18 forth the amounts of Leased Settlement Water needed by the Company during each  
19 month of the following year, along with a preliminary estimate of water needed for the  
20 succeeding two years. The notice shall specify the points of delivery to which Leased  
21 Settlement Water is to be delivered and may specify the maximum rate in cubic feet per  
22 second at which Leased Settlement Water is to be delivered at each point of delivery.  
23 The Community shall include the Company's schedule in the annual schedule of  
24 deliveries which the Community submits to the Secretary.

25 B. Upon receipt of the schedule, the Secretary shall review it, and  
26 after consultation with the Community and the Company, shall make only such

1 modifications in the schedule as are necessary to ensure that deliveries of Leased  
2 Settlement Water will be consistent with this Agreement and with the Settlement  
3 Agreement. All modifications shall be made on or before December 1 of the year in  
4 which the water delivery schedule is submitted. The Community and the Company  
5 shall be apprised by the United States of all modifications and of the final schedule.

6 C. The schedule may be amended by the Secretary upon written  
7 request by the Community and the Company. Proposed amendments shall be subject to  
8 review and modification by the Secretary within a reasonable time before the needed  
9 change is to become effective, and in like manner as the schedule itself.

10 D. The Company shall pay the Water Use Charge as follows:

11 (1) The Company shall submit with the schedule required by  
12 Paragraph 8.A a partial payment of the Water Use Charge for the succeeding year which  
13 is equal to one twelfth ( $1/12$ ) of the total Water Use Charge payable in the year for  
14 which Leased Settlement Water is scheduled for delivery. The remaining eleven-  
15 twelfths ( $11/12$ ths) of the Water Use Charge for the year in which Leased Settlement  
16 Water is scheduled for delivery shall be paid in 11 equal monthly installments, the first  
17 of which installments shall be due and payable on January 5 of the year for which water  
18 is scheduled for delivery and the balance of which shall be due and payable on the fifth  
19 day of each month thereafter until the Water Use Charge for the year for which the  
20 schedule was submitted is paid in full.

21 (2) The Water Use Charge shall be paid in the manner provided  
22 for in Paragraph 8.D.(1) notwithstanding the Secretary's adjustment of the schedule,  
23 unless the schedule is adjusted to result in a decrease in the total amount of water to be  
24 delivered during the year for which the schedule is submitted, in which event the Water  
25 Use Charge shall be adjusted to reflect lower prospective deliveries of water. Nothing  
26 in this subparagraph 8.D.(2) shall be construed as authorizing the Secretary to deliver

1 less than the full amount of Leased Settlement Water to which the Company is entitled  
2 under this Agreement unless otherwise agreed by the Secretary, the Community, and the  
3 Company.

4 (3) In the event an additional charge is due in a year pursuant to  
5 Paragraph 5.D with respect to Leased Settlement Water scheduled by the Company for  
6 delivery during a time of shortage, the payments due in the year shall be adjusted by the  
7 amount of the additional charge for the year, as determined in Paragraph 5.D, and the  
8 amount of the additional charge shall be prorated equally over the remaining months of  
9 the year for which the Water Lease Charge is payable, and the additional charge, as pro-  
10 rated, shall be due and payable at the same time or times as the Water Use Charge is  
11 payable pursuant to subparagraph (1) of this Paragraph 8.D.

12 (4) Nothing in this Paragraph 8 shall be construed to prohibit  
13 the United States, in the first year in which the Company requires the delivery of the  
14 Leased Settlement Water, from deviating from the dates by which a schedule must be  
15 submitted in order to accelerate the time by which the Company may begin to take  
16 delivery of Leased Settlement Water.

17 (5) The Company shall incur no liability for failing to submit a  
18 delivery schedule for a particular year, other than as is provided in Paragraph 5.C  
19 regarding minimum use. By failing to submit a schedule, the Company shall not be  
20 entitled to the delivery of Leased Settlement Water during the year for which the  
21 schedule was to have been submitted but was not submitted, unless otherwise agreed by  
22 the Community and the Secretary.

23 9. Metering. All Leased Settlement Water delivered to delivery points  
24 designated by the Company shall be measured with equipment furnished by the  
25 Company at the Company's expense and approved by the United States, or, at the  
26 United States' election, by the United States at the Company's expense, and shall be

1 operated and maintained by the United States or its designated representative at the  
2 Company's expense. At the request of the Company or the Community, the accuracy of  
3 the meter shall be investigated by the United States and any errors in measurement  
4 which are determined to have occurred shall be adjusted.

5 10. Subleasing: Assignment: Encumbrance.

6 A. The Company may sublease the Leased Settlement Water in whole  
7 or in part with the approval of the Secretary and the Community which approval shall  
8 not be unreasonably withheld provided, that notwithstanding any such sublease, the  
9 Company shall not be relieved of any obligation or liability under this Agreement nor  
10 shall any sublease alter or dismiss the authority of the Secretary under this Agreement  
11 or under the sublease or subleases; and, provided, further, that any payments made by a  
12 sublessee under any sublease shall be subject to Paragraph 10.D.

13 B. The Company may encumber this Agreement and all of its rights  
14 hereunder for the purposes of financing the development and construction of diversion,  
15 transmission, treatment and distribution systems, or of financing the development of the  
16 Property or the development of any of the Company's present or future properties;  
17 provided, no encumbrance shall be effective until the Community has been notified of  
18 the encumbrance and the encumbrance has been approved by the Secretary or his  
19 designee, which approval shall not be unreasonably withheld; and, provided, further,  
20 that any instrument in which this Agreement or the Company's rights hereunder are  
21 encumbered shall require the holder of the encumbrance and its successors, in the event  
22 of a foreclosure or forfeiture of the Company's security under such encumbrance, as a  
23 condition of the right to foreclose, to be bound by all of the terms and conditions of this  
24 Agreement. The Community's consent is hereby given to such encumbrance or  
25 encumbrances. The encumbrance shall be approved or disapproved by the Secretary or  
26 his designee within seven (7) working days. If the encumbrance has not been

1 disapproved by the end of seven (7) working days, the encumbrance shall be deemed to  
2 have been approved. Approval of the encumbrance shall be based on the requirement in  
3 the encumbrance that the holder of the encumbrance or its successor, as a condition of  
4 the right to foreclose the encumbrance, be bound by all of the terms and conditions of  
5 this Agreement and on the financial capability of the holder of the encumbrance to  
6 assume and honor the terms and conditions of this Agreement. For purposes of this  
7 Paragraph 10, the term "encumbrance" shall mean any mortgage, indenture, deed of  
8 trust, security agreement, pledge, subdivision trust or any other arrangement in which  
9 this Agreement, or the Company's rights under this Agreement, are taken as security for  
10 any obligation of the Company to the holder of the encumbrance. For purposes of this  
11 subparagraph B., the Secretary's designee shall be the Area Director of the Phoenix  
12 Area Office of the Bureau of Indian Affairs or his designee.

13 C. The Company may assign its rights and obligations under this  
14 Agreement in whole or in part with the written approval and consent of the Secretary  
15 and the Community, which approval and consent shall not be unreasonably withheld,  
16 and which consent shall be based upon the assignee's or assignees' financial capability  
17 of assuming and honoring the Company's obligations under this Agreement. In any  
18 assignment to any of the Cities of Phoenix, Glendale, Peoria, Mesa, Tempe, Chandler,  
19 Scottsdale (subject to the conditions specified in Paragraph 6), or any other Town or  
20 City located north of the turnout from the main aqueduct of the Central Arizona Project  
21 into the Santa Rosa Canal to whom an assignment is proposed to be made shall be  
22 considered to be financially capable of assuming and honoring the Company's  
23 obligations under the Agreement if, at the time of the proposed assignment, the  
24 proposed assignee's or assignees' financial rating shall be at least a "BBB" rating by  
25 Standard & Poor's Corporation (or the equivalent of such a rating if the method of rating  
26 is changed) or a "Baa" rating from Moody's Investors Services (or the equivalent of

1 such a rating if the method of rating is changed.) With respect to any assignment to  
2 Citizens Utilities Company ("Citizens Utilities"), or other utility company or  
3 companies, Citizens Utilities or the utility company or companies shall be considered to  
4 be financially capable if, at the time of the proposed assignment, its (their) financial  
5 rating is at least a "BBB" rating by Standard & Poor's Corporation (or the equivalent of  
6 such a rating if the method of rating is changed) or a "Baa" rating from Moody's  
7 Investors Service (or the equivalent of such a rating if the method of rating is changed.)  
8 If the financial rating of any of the entities enumerated in this Paragraph to which the  
9 Company proposes to make an assignment does not satisfy the criteria set forth in this  
10 Paragraph 10.C, the entity may nevertheless be shown to be financially capable by any  
11 other standard, but shall not be entitled to any presumption of financial capability.  
12 Nothing in this Paragraph shall be construed to prohibit assignments to entities other  
13 than the entities enumerated in this Paragraph 10.C, and the financial capability of any  
14 such other entity or entities shall be demonstrated at the time approval of the assignment  
15 is requested by the Company. Subsequent to an assignment, the Company shall be  
16 relieved of all further obligations with respect to that portion of the Leased Settlement  
17 Water which is assigned, to the extent of the assignment, unless otherwise provided in  
18 the instrument of assignment. In the event of any assignment or assignments of the  
19 Company's rights and obligations under this Agreement, and, in addition to the other  
20 requirements of this Paragraph 10.C, the name(s) of the assignee(s) and their residences  
21 and occupations shall be entered in writing upon this Agreement and the consent of the  
22 Secretary and, if required, the Commissioner of Indian Affairs and the Community  
23 endorsed thereon.

24 D. The Company shall share with the Community from any  
25 consideration paid to the Company in connection with any assignment or sublease of the  
26 Leased Settlement Water an amount or amounts calculated as follows: From each



1 payment received by the Company in connection with the assignment or sublease, the  
2 Company shall pay to the Community, within 30 days of the Company's receipt of such  
3 payment, an amount calculated as follows:

$$4 \qquad \qquad \qquad D \times \frac{E}{100} = F$$

5  
6 where D is the amount of the payment received by the Company, E is the number of  
7 years elapsed since the Effective date (rounded to the next highest or lowest year), and  
8 where F is the portion of the payment received by the Company to which the  
9 Community is entitled.

10        11. Taxation. The parties agree that this Agreement will be performed off of  
11 the Community's Reservation; that the Company shall have no right of access to the  
12 Community's Reservation by reason of this Agreement; that the Company shall not be  
13 entitled to receive governmental services or protection of any nature from the  
14 Community by reason of this Agreement; that the Company is not making or causing to  
15 be made any demand on the resources of the Community's Reservation or its  
16 government; that this Agreement grants no privilege of trade or other activity on the  
17 Community's Reservation; and that, for the foregoing reasons, there is no basis upon  
18 which the Community may exercise such taxing authority as it may have or may acquire  
19 so as to impose a tax of any nature upon this Agreement, the Company's rights  
20 hereunder, the Leased Settlement Water to be delivered pursuant to this Agreement, the  
21 Company's activities in performing this Agreement, or upon any other thing or activity  
22 associated with this Agreement. The parties agree that the payments to be made  
23 pursuant to Paragraph 5 of this Agreement are the exclusive consideration to which the  
24 Community is entitled from the Company under this Agreement. In the event that the  
25 Community at any time determines to levy and is thereafter successful in levying a tax  
26 in contravention of this Paragraph 11, then, in such an event, the aggregate of any taxes

1 collected by the Community from the Company in each year may be deducted in full by  
2 the Company from the amount of the Water Use Charge to be paid in that year by the  
3 Company to the Community pursuant to Paragraph 5 of this Agreement, and the  
4 Company, by making such a deduction, shall not be considered to be in breach of or  
5 default under this Agreement; provided, that the Company shall be required to pay the  
6 Water Use Charge to the extent that the Water Use Charge for the year exceeds the total  
7 of all taxes paid by the Company to the Community.

8 12. Miscellaneous Provisions.

9 A. Any delivery of Leased Settlement Water by the Secretary to the  
10 Company pursuant to this Agreement shall, to the extent of that delivery, satisfy the  
11 Secretary's delivery obligation to the Community under the Settlement Agreement.

12 B. All Leased Settlement Water leased to the Company pursuant to  
13 this Agreement shall be considered to have been devoted to the exclusive use and  
14 benefit of the Community pursuant to the 1984 Act, as amended, and the Settlement  
15 Agreement, notwithstanding the Company's physical use of such Leased Settlement  
16 Water in accordance with the terms of this Agreement.

17 C. The Leased Settlement Water leased and delivered to the Company  
18 pursuant to this Agreement shall be considered to have been used by the Community for  
19 purposes of the Community's rights under paragraph 8 of the Settlement Agreement.

20 D. The Community shall be entitled to schedule for delivery and to  
21 use any of the Leased Settlement Water which is not scheduled for delivery by the  
22 Company; provided, however, that in the event of any conflict between a schedule  
23 submitted by the Company and a schedule submitted by the Community for the use of  
24 Leased Settlement Water, the schedule submitted by the Company shall take  
25 precedence.  
26

1           E.     The Secretary, by execution of this Agreement, approves, endorses  
2 and consents to and ratifies this Agreement, and the Community, by executing this  
3 Agreement, approves, accepts, consents to and ratifies this Agreement.

4           13.   Default and Remedies.

5           A.     Any of the following occurrences, conditions, or acts shall  
6 constitute an "Event of Default" under this Agreement:

7                   (a)    if the Company or its sublessees shall

8                           (i)    default in making payment when due of any Water  
9 Lease Charges or Water Use Charges,

10                          (ii)   default in the observance or performance of any other  
11 provisions of this Agreement, and if such default shall continue (A) as to clause (i)  
12 above, for 30 days after the Community shall have given written notice to the Company,  
13 or, in the case of a sublessee, to the Company and its sublessee, specifying such default  
14 and demanding that same be cured, or (B) as to clause (ii) above, for 60 days after the  
15 Community shall have given written notice to the Company, or, in the case of a  
16 sublessee, to the Company and its sublessee, specifying such default and demanding  
17 that the same be cured (unless such default cannot be cured by the payment of money  
18 and cannot within due diligence be wholly cured within such period of 60 days, in  
19 which case the Company or its sublessees shall have such longer period as shall be  
20 necessary to cure the default, so long as the Company or its sublessees begins promptly  
21 to cure the same within such 60-day period, prosecutes the cure to completion with due  
22 diligence, and advises from time to time, upon the Community's request, of the actions  
23 which the Company or its sublessees is taking and the progress being made); or

24                          (b)   if the Company or its sublessees shall file a petition in  
25 bankruptcy or for reorganization or for an arrangement pursuant to the Bankruptcy law  
26 or under any similar federal or state law, or shall be adjudicated a bankrupt or become

1 insolvent, or shall be unable to meet the Company or its sublessees' obligations as they  
2 become due, or shall take any corporate action in furtherance of any of the foregoing; or

3 (c) if a petition or answer shall be filed proposing the  
4 adjudication of the Company or its sublessees, if, as a bankrupt or the reorganization of  
5 the Company or its sublessees pursuant to the Bankruptcy law or any similar federal or  
6 state law, and (i) the Company or its sublessees shall consent to the filing thereof, or (ii)  
7 such petition or answer shall not be discharged or denied within 60 days after the filing  
8 thereof; or

9 (d) if a receiver, trustee, or liquidator (or other similar official)  
10 of the Company or its sublessees, or of all or substantially all of its respective  
11 businesses or assets or of the interest of the Company or its sublessees, in the Leased  
12 Settlement Water shall be appointed and shall not be discharged within 60 days  
13 thereafter or if the Company or its sublessees shall consent to or acquiesce in such  
14 appointment; or

15 (e) if the estate or interest of the Company or its sublessees in  
16 the Leased Settlement Water shall be levied upon or attached in any proceeding and  
17 such process shall not be vacated or discharged within 60 days after such levy or  
18 attachment, unless such levy or attachment is contested;

19 (f) notwithstanding the provisions of subparagraphs (b), (c),  
20 (d), and (e) hereof, if at any time during the term hereof, proceedings in bankruptcy,  
21 insolvency or other similar proceedings be instituted by or against the Company or its  
22 sublessees, whether or not such proceedings result in an adjudication against the  
23 Company or its sublessees, or should a receiver of the business or assets of the  
24 Company or its sublessees be appointed, such proceedings or adjudications shall not  
25 affect the validity of this Agreement so long as any unpaid Water Lease Charges and  
26 Water Use Charges hereunder continue to be paid to Community and the other

1 covenants and conditions of this Agreement on the part of the Company or its  
2 sublessees to be performed, are performed, and in such event this Agreement shall  
3 continue to remain in full force in accordance with the terms herein contained.

4           B.     The Company, the Community, and the Secretary shall attempt to  
5 resolve any disputes which arise under this Agreement, including a default or breach of  
6 this Agreement, by negotiation among themselves. To the extent that such negotiations  
7 do not result in the resolution of the dispute or the curing of the default or breach, the  
8 procedures set forth in 25 CFR Part 162.14, as amended from time to time, shall apply  
9 and the parties shall have the right to appeal any determination made pursuant to 25  
10 CFR Part 162.14 as provided in 25 CFR Part 2, as amended from time to time, and may  
11 appeal any final determination of the Secretary pursuant to 5 U.S.C. § 701 et seq., as  
12 amended from time to time, and as otherwise provided by law. No decision of the  
13 Secretary to terminate this Agreement shall be implemented until all possibilities of  
14 further administrative appeal have been exhausted by the Company; and, for the reason  
15 that Leased Settlement Water will be needed for the welfare and livelihood of the  
16 residents of the communities to which it is being delivered, no action shall be taken by  
17 the Secretary to suspend the delivery of Leased Settlement Water pursuant to this  
18 Agreement during the pendency of any administrative appeal.

19           14.   Effect of Invalidity. In the event the Company's entitlement to the delivery  
20 of Leased Settlement Water under this Agreement is determined to be invalid by a final  
21 judgment entered by a court of competent jurisdiction over the objections of the  
22 Company with the result that the Community reacquires the right to receive delivery of  
23 the Leased Settlement Water, then the Community shall refund to the Company the  
24 portion of the Water Lease Charges paid pursuant to Paragraph 5.A of this Agreement  
25 that the number of years remaining in the lease term at the time of such final  
26 determination bears to 100, together with interest therein at the rate(s) specified in

1 Paragraph 5.A of this Agreement. Nothing in this Paragraph 14 shall be construed as a  
2 limitation on the Company's right to damages from the United States by virtue of any  
3 breach of this Agreement by the United States or the Community.

4 15. NEPA Compliance. Notwithstanding any other provision of this  
5 Agreement, Leased Settlement Water shall not be delivered to the Company unless and  
6 until the Company has obtained final environmental clearance from the United States.  
7 Final environmental clearance will be based upon an analysis of the environmental  
8 impacts of the Company's plans for taking and using Leased Settlement Water, in  
9 accordance with the National Environmental Policy Act of 1969 (83 Stat. 852) and  
10 other applicable environmental legislation. Any action(s) required on behalf of the  
11 Company in order to obtain final environmental clearance from the United States will  
12 be identified to the Company by the United States, and no Leased Settlement Water  
13 shall be delivered to the Company unless and until the Company has completed all such  
14 action(s) to the satisfaction of the United States. The cost of all such action(s),  
15 including the cost of review and oversight by the United States, shall be borne by the  
16 Company at no cost to the United States. The above requirements shall also apply to  
17 any new points of diversion of Leased Settlement Water proposed by the Company.

18 16. Counterparts, Notice, Etc.

19 A. This Agreement may be executed in multiple counterparts, each of  
20 which shall be considered to be an original.

21 B. Any notice to be given or payment to be made hereunder shall have  
22 been given or paid or when deposited in the United States mail in an Arizona post  
23 office, certified or registered, postage prepaid, addressed as follows:

24 As to the United States: Secretary of the Interior  
25 Department of the Interior  
26 1849 C Street, NW  
Washington, D.C. 20240

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Area Director  
Phoenix Area Office  
Bureau of Indian Affairs  
P.O. Box 10  
Phoenix, Arizona 85001  
  
Regional Director  
Bureau of Reclamation  
Lower Colorado Region  
P.O. Box 61470-1470  
Boulder City, Nevada 89006

As to the Community: Ak-Chin Indian Community Council  
42507 West Peters & Nall Road  
Maricopa, Arizona 85239  
Attention: Chairman

As to the Company: Del Webb Corporation  
6001 North 24th Street  
P.O. Box 29040  
Phoenix, Arizona 85038  
Attn: Chief Executive Officer

or addressed to such other address as the party to receive such notice or payment shall have designated in a written notice given as required by this Paragraph 16.

C. No member of Congress or Resident Commissioner shall be admitted to any share or part of this Agreement or to any benefit to arise herefrom. This restriction shall not be construed to extend to this Agreement if made with a corporation or a company for its general benefit.

D. If any part of this Agreement is not enforceable, the rest of the Agreement may be enforced. Any waiver under this Agreement shall be in writing.

E. This Agreement shall inure to the benefit of and be binding upon the successors of the parties hereto.

1           17.   Extensions and Additional Water Use Charges.

2           A.    The Company shall have the right to extend the term of this  
3 Agreement with respect to Leased Settlement Water which is Identified Water for the  
4 number of years necessary to make the Identified Water available to Del Webb for a  
5 period of 100 years from the date of the issuance of a certificate of assured water supply  
6 by the Arizona Department of Water Resources ("the Department") which is based upon  
7 the Identified Water. For purposes of this Agreement, the term "Identified Water"  
8 means not to exceed 7,800 acre-feet of Leased Settlement Water that is identified by  
9 Del Webb as supporting a certificate of assured water supply from the Department  
10 which is issued after June 30, 1998, and which is identified in one or more of the notices  
11 provided for in Paragraph 17.B of this Agreement.

12           B.    The term of this Agreement with respect to Identified Water may  
13 be extended by the Company's giving notice to the Community and the United States, in  
14 the manner provided for in Paragraph 16.B of this Agreement, specifying the amount of  
15 Identified Water with respect to which this Agreement is extended. The notice shall be  
16 in substantially the form of Exhibit "C" hereto, which Exhibit "C" is hereby made a part  
17 hereof.

18                   (1)   With respect to certificates of assured water supply which  
19 are issued after June 30, 1998, and on or before Amendment Number One to this  
20 Agreement is considered effective, the notice may be given on or before the thirtieth  
21 (30th ) day after Amendment Number One is considered effective. Upon the giving of  
22 any such notice, the Agreement shall be extended with respect to the Identified Water  
23 specified in the notice, for a period of 100 years from the date of the notice.

24                   (2)   With respect to certificates of assured water supply which  
25 are issued subsequent to the date Amendment Number One to the Agreement is  
26 considered effective, the notice may be given by Del Webb on or before the thirtieth



1 (30th) day after the date of the Department's issuance of the certificate of assured water  
2 supply with respect to which the notice is given. Upon the giving of any such notice,  
3 the Agreement shall be extended with respect to the Identified Water specified in the  
4 notice, for a period of 100 years from the date of the notice. More than one notice may  
5 be given pursuant to this Paragraph 17.B.2.

6 (3) Del Webb shall supply the Community and the United  
7 States with copies of all certificates of assured water supply which are based upon  
8 Identified Water within thirty (30) days of Del Webb's receipt of the originals of the  
9 certificates from the Department.

10 C. The right to extend this Agreement with respect to Identified Water  
11 shall expire on December 31, 2020, or such earlier date as Del Webb shall have given  
12 notices with respect to a cumulative total of 7,800 acre-feet of Identified Water.

13 D. The Company shall pay the Community, in the manner provided  
14 for in Paragraph 16.B. of this Agreement, additional water lease charges ("the  
15 Additional Water Lease Charges") for the number of acre-feet of Identified Water  
16 which are included in any notice extending the term of this Agreement given pursuant to  
17 Paragraph 17.B of this Agreement.

18 (1) The Additional Water Lease Charges shall be calculated in  
19 accordance with the following formula:

$$20 \quad \$1305.03 \times (A/158.6) \times B \times (100-C)/100$$

21 where,

22 (i) \$1305.03 is the per acre-foot price of Leased Settlement  
23 Water as of the date Del Webb exercised the option to lease Leased Settlement Water  
24 on December 6, 1996;

25 (ii) 158.6 is the CPI-U for the month of December, 1996;

26 (iii) 100 is the original term of this Agreement;

1 (iv) A is the CPI-U for the month and year in which Del  
2 Webb gives notice to the Community pursuant to Paragraph 17.B of this Agreement  
3 specifying the amount of Identified Water with respect to which the term of this  
4 Agreement is extended;

5 (v) B is the number of acre-feet of Identified Water with  
6 respect to which the term of this Agreement is to be extended; and

7 (vi) C is the result obtained by subtracting from 2096 the  
8 year in which Del Webb exercises the right to extend the term of this Agreement with  
9 respect to the Identified Water included in the notice given pursuant to Paragraph 17.B.

10 Examples showing the manner in which the calculation of the amount of Additional  
11 Water Lease Charges is made are attached as Exhibit "D", which Exhibit "D" is hereby  
12 made a part hereof.

13 (2) At the election of the Company, the Additional Water Lease  
14 Charges shall be due and payable in full (without interest) on the date the Company  
15 gives notice pursuant to Paragraphs 17.B.1 or 17.B.2 of this Agreement, whichever is  
16 applicable, with respect to the Identified Water specified in the notice, or, in ten equal  
17 annual installments of principal, with interest as hereinafter provided, the first of which  
18 installments shall be due and payable on the anniversary of the date the notice is given,  
19 and the remaining installments of which shall be due and payable on the same date of  
20 each year thereafter until the Additional Water Lease Charges payable with respect to  
21 the Identified Water specified in the notice are paid in full. In the event that the  
22 Company does not pay the Additional Water Lease Charges in full at the time the notice  
23 is given, the Company shall have elected to pay the Additional Water Lease Charges in  
24 ten equal annual installments of principal.

25 (3) Interest shall accrue on the outstanding balance of the  
26 Additional Water Lease Charges beginning on the thirtieth (30th) day following the date

1 that the election provided for in Paragraph 17.D.2 is made with respect to Identified  
2 Water specified in a notice given pursuant to Paragraphs 17.B.1 or 17.B.2, at the rate of  
3 8% per annum calculated on the basis of actual days elapsed and 365-day years.  
4 Accrued interest shall be due and payable annually, at the same time as the Additional  
5 Water Lease Charges installment with respect to which the interest has accrued is due  
6 and payable, until the unpaid balance of the Additional Water Lease Charges is paid in  
7 full. The unpaid balance of the Additional Water Lease Charges may be prepaid at any  
8 time, together with accrued interest to date.

9 IN WITNESS WHEREOF, the parties have executed this Agreement as of  
10 the date written above.

11  
12 By Wayne Nordhall  
Bureau of Indian Affairs  
13 Date: 6/14/01

THE UNITED STATES OF AMERICA  
By Robert W. Johnson  
Bureau of Reclamation  
Date: 6/27/01

14 Approved as to form:  
15 By Katherine Ott Verburg  
Office of the Field Solicitor  
16 Date: 6-13-01

17  
18 AK-CHIN INDIAN COMMUNITY

19 By Quam Canyle  
Its CHAIRMAN  
20 Date: June 4, 2001

21  
22 DEL WEBB CORPORATION, a  
Delaware corporation

23 By Mary S. Alexander  
Its Vice President - Legal  
24 Date: May 7, 2001  
25  
26

1 Receipt of the payment of the Company of the sum of \$300,000 to the Community is  
2 hereby acknowledged.

3 AK-CHIN INDIAN COMMUNITY

4 By: \_\_\_\_\_  
5 Its \_\_\_\_\_  
6 Date: \_\_\_\_\_  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

EXHIBIT "A"

**EXHIBIT "A" TO  
OPTION AND LEASE AGREEMENT  
AMONG  
THE AK-CHIN INDIAN COMMUNITY  
THE UNITED STATES OF AMERICA  
AND  
DEL WEBB CORPORATION**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

EXHIBIT "A"  
NOTICE OF EXERCISE OF OPTION

Del Webb Corporation (the "Company") notifies the Ak-Chin Indian Community (the "Community") and the United States of America (the "United States") that it hereby exercises the option granted to the Company in that Agreement between the Company, the Community, and the United States dated \_\_\_\_\_, 1994, of which this Exhibit "A" is a part, to lease from the Community \_\_\_\_\_ acre-feet per annum of the Settlement Water described in the Agreement, for a period of 100 years beginning on the date of this Notice.

The Company's calculations show that the amount of the Water Lease Charges to be paid by the Company to the Community pursuant to Paragraph 5.A of the Agreement is \$ \_\_\_\_\_, payable as provided in the Agreement. The calculations by which the total amount of the Water Lease Charges was determined are attached to this Notice.

Originals of this Notice are being mailed on the date below in accordance with Paragraph 16.B of the Agreement to the addresses and parties identified in that Paragraph.

This Notice is dated this \_\_\_\_ day of \_\_\_\_\_, 1999\_\_.

DEL WEBB CORPORATION, a  
Delaware corporation

By: \_\_\_\_\_  
Its \_\_\_\_\_

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**EXHIBIT "B"**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**EXHIBIT "B" TO  
OPTION AND LEASE AGREEMENT  
AMONG  
THE AK-CHIN INDIAN COMMUNITY  
THE UNITED STATES OF AMERICA  
AND  
DEL WEBB CORPORATION**

1 EXHIBIT "B"

2 This Exhibit "B" sets forth sample calculations by which the Water Lease Charges  
3 would be adjusted and then calculated under the Agreement, assuming:

- 4 (1) That the option is exercised July 31, 1995, for 10,000 acre-feet of water;  
5 (2) That the CPI-U index published closest to December 31, 1994, is 144.0; and  
6 (3) That the CPI-U index published closest to July 31, 1995, is 146.9.

7	Calculation:	$\frac{146.9}{14.0}$	=	1.02
8		$1.02 \times 100$	=	102
9		$102 - 100$	=	2% change
10		$1.02 \times \$1,023/\text{AF}$	=	\$1,227.06/AF
11		$\$1,227.06 \times 10,000/\text{AF}$	=	\$12,270,600
12		Total Water Lease Charges	=	\$12,270,600

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**EXHIBIT "C"**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**EXHIBIT "C" TO**  
**OPTION AND LEASE AGREEMENT**  
**AMONG**  
**THE AK-CHIN INDIAN COMMUNITY**  
**THE UNITED STATES OF AMERICA**  
**AND**  
**DEL WEBB CORPORATION**

1 EXHIBIT "C"

2 NOTICE OF EXTENSION OF AGREEMENT

3 NOTICE NO. \_\_\_\_\_

4 To: Ak-Chin Indian Community Council  
5 42507 West Peters & Nall Road  
6 Maricopa, Arizona 85239  
7 Attention: Chairman

8 Secretary of the Interior  
9 Department of the Interior  
10 1849 C Street, N.W.  
11 Washington, D.C. 20240

12 Area Director  
13 Phoenix Area Office  
14 Bureau of Indian Affairs  
15 P.O. Box 10  
16 Phoenix, Arizona 85001

17 Regional Director  
18 Bureau of Reclamation  
19 Lower Colorado Region  
20 P.O. Box 61470-1470  
21 Boulder City, Nevada 89006

22 NOTICE IS HEREBY GIVEN THAT the Option and Lease Agreement among  
23 the Community, the United States, and Del Webb dated as of December 14, 1996 ("the  
24 Agreement"), as amended on \_\_\_\_\_, is hereby extended with respect to  
25 \_\_\_\_\_ acre-feet of Leased Settlement Water, which, by this notice, becomes Identified Water  
26 under the Agreement, to a date which is 100 years after the date of this notice.

DEL WEBB CORPORATION

By \_\_\_\_\_

Its \_\_\_\_\_

Date: \_\_\_\_\_

24 The cumulative total of Identified Water identified in this Notice and in previous Notices is:

25 \_\_\_\_\_

26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**EXHIBIT "D"**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**EXHIBIT "D" TO**  
**OPTION AND LEASE AGREEMENT**  
**AMONG**  
**THE AK-CHIN INDIAN COMMUNITY**  
**THE UNITED STATES OF AMERICA**  
**AND**  
**DEL WEBB CORPORATION**

EXHIBIT "D"  
EXAMPLES SHOWING CALCULATIONS OF  
ADDITIONAL WATER LEASE CHARGES

Formula:

$$\$1305.03 \times (A/158.6) \times B \times (100 - C)/100$$

where,

- (i) \$1305.03 is the per acre-foot price of Leased Settlement Water as of the date Del Webb exercised the option to lease Leased Settlement Water on December 6, 1996;
- (ii) 158.6 is the CPI-U for the month of December 1996;
- (iii) 100 is the original term of this agreement;
- (iv) A is the CPI-U for the month and year in which Del Webb gives notice to the Community pursuant to Paragraph 17.B of the Agreement specifying the amount of Identified Water with respect to which the term of this Agreement is extended;
- (v) B is the number of acre-feet of Identified Water with respect to which the term of the Agreement is to be extended; and
- (vi) C is the result obtained by subtracting from 2096 the year in which Del Webb exercises the right to extend the term of the Agreement with respect Identified Water included in the notice given pursuant to Paragraph 17.B of the Agreement.

For purposes of these sample calculations, the following assumptions should be made:

- a. Del Webb will give a notice extending the term of the Agreement in December 1999 and then again in December 2008.
- b. Del Webb will extend the lease term in December 1999 with respect to 2,500 acre-feet of Identified Water and, in December 2008, with respect to 5,000 acre-feet of Identified Water.



1 **Extension consideration paid in December 1999**

2 A = Assume the CPI-U for December 1999 is 168.5

3 B = 2,500 acre-feet

4 C = 97 (which is year 2096 minus year 1999)

5 Formula:  $\$1305.03 \times (A/158.6) \times B \times (100-C)/100$

6  
7 **Calculation:**  $\$1305.03 \times (168.5/158.6) \times 2,500 \times (100-97)/100 = \$103,986.85$

8 **Extension consideration paid in December 2008**

9 A = Assume the CPI-U for December 2008 is 195.3

10 B = 5,000 acre-feet

11 C = 88 (which is year 2096 minus year 2008)

12 Formula:  $\$1305.03 \times (A/158.6) \times B \times (100-C)/100$

13  
14 **Calculation:**  $\$1305.03 \times (195.3/158.6) \times 5,000 \times (100-88)/100 = \$964,208.10$

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

H

---

THIRD AMENDMENT TO AGREEMENT  
FOR  
ANTHEM WATER/WASTEWATER INFRASTRUCTURE

among

DEL WEBB CORPORATION  
(and Affiliate)

and

ARIZONA-AMERICAN WATER COMPANY

Dated as of December 12, 2002

---

---

THIRD AMENDMENT TO AGREEMENT FOR ANTHEM  
WATER/WASTEWATER INFRASTRUCTURE

---

THIRD AMENDMENT TO AGREEMENT, dated as of December 12, 2002 (the "Third Amendment"), among DEL WEBB CORPORATION, a Delaware corporation ("Webb"), ANTHEM ARIZONA, L.L.C., an Arizona limited liability company which is the successor by merger to Anthem Arizona, Inc., an Arizona corporation formerly known as The Villages at Desert Hills, Inc. ("Developer"), and ARIZONA-AMERICAN WATER COMPANY, an Arizona corporation which is the successor by assignment to Citizens Communications Company, a Delaware corporation formerly known as Citizens Utilities Company, Citizens Water Services Company of Arizona, an Arizona corporation, and Citizens Water Resources Company of Arizona, an Arizona corporation ("AAW").

RECITALS:

A. Webb, Developer and AAW's assignors entered into an agreement dated as of September 29, 1997 entitled "Agreement for the Villages at Desert Hills Water/Wastewater Infrastructure," as amended by the First Amendment dated as of May 8, 2000, and the Second Amendment dated as of September 21, 2000 (collectively, the "Agreement"). (Capitalized terms used in this Third Amendment have the meaning assigned to those terms in the Agreement.)

---

B. The Parties desire to amend the Agreement in certain respects.

---

AGREEMENT:

NOW, THEREFORE, the Parties agree as follows:

1. Update of References to and Definitions of Parties.

a. Assignments. The Parties acknowledge that, pursuant to Section 14.5 of the Agreement, they have previously consented to (i) the assignment arising from a change in control of the Webb Parties and (ii) the assignment to AAW of the rights of the Citizens Parties under the Agreement. The Parties acknowledge and agree that any and all conditions to such consents have been fully satisfied, and that such assignments have occurred and are effective.

b. AAW. Exhibit A of the Agreement ("Definitions") is amended to add the following term:

"AAW" means Arizona-American Water Company, an  
Arizona corporation."

c. Conforming Changes. Exhibit A of the Agreement ("Definitions") is amended to delete the terms "Citizens," "Citizens Parties," "DistCo," and "TreatCo." All references in the Agreement to Citizens, the Citizens Parties, DistCo and TreatCo are deemed amended to refer to AAW.

2. Quantity of Ak-Chin Water. The Agreement is amended to substitute the phrase "7,900 acre-feet" wherever the phrase "6,825 acre-feet" or "7,500 acre-feet" appears. The Parties acknowledge that, pursuant to the Second Amendment, the phrase "6,825 acre-feet" was previously substituted for the phrase "7,500 acre-feet."

---

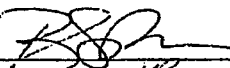
3. Future Adjustment of Ak-Chin Water. The Parties acknowledge and agree that the amount of Ak-Chin Water to be sold by Webb to AAW under this Agreement must be increased

if any portion of the Project is rezoned for commercial use requiring additional water supply or for higher density residential use.

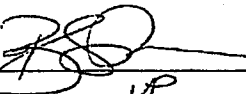
4. Ratification. Except as amended in this Third Amendment, the Agreement is hereby ratified, confirmed and approved.

IN WITNESS WHEREOF, the Parties hereto have caused this Third Amendment to be entered into on the day and year first above written.

DEL WEBB CORPORATION

By:   
Its: VP

ANTHEM ARIZONA, L.L.C.

By:   
Its: VP

ARIZONA-AMERICAN WATER COMPANY

By:   
Its: President

I

# Exhibit I

## WATER USE DATA SHEET

<b>NAME OF COMPANY</b> <span style="float: right;">→</span>	Arizona-American Water Company
<b>Project Name</b>	
<b>ADEQ Public Water System No.</b> <span style="float: right;">→</span>	Aqua Fria 04-07-695

MONTH/YEAR (Last 12 Months)	NUMBER OF CUSTOMERS	GALLONS PUMPED PER MONTH (Thousands)
Mar. '05	22,830	259,817
Apr. '05	23,147	329,646
May '05	23,337	386,118
June '05	23,903	411,116
July '05	24,642	477,242
Aug. '05	25,103	381,826
Sept. '05	25,708	434,741
Oct. '05	26,004	387,527
Nov. '05	26,508	345,105
Dec. '05	26,514	309,204
Jan. '06	26,928	331,035
Feb. '06	27,422	303,268
Mar. '06	27,923	329,797

STORAGE TANK CAPACITY (Gallons)	WELL NO.	ARIZONA DEPT. OF WATER RESOURCES WELL I.D. NUMBER	WELL PRODUCTION (Gallons per Minute)
2,925,000	1.1	55-623682	1175
	1.2	55-575445	955
	1.4	55-605761	910
	1.5	55-587293	1165
	2.1	55-553671	890
	2.2	55-55002	Out of Service
	2.3	55-573654	900
	2.4	55-200558	1300
	3.1	55-565447	1110
	3.2	55-576971	1055
	3.3	55-591439	1092
	3.4	55-202096	1230



	4.1	55-604498	755
	4.2	55-555779	745
	4.3	55-590166	940
	4.4	55-576971	945
	5.1	55-514145	Out of Service
	5.2	55-624692	Out of Service
	5.3	55-604500	780
	7.1	55-595221	965
	8.1	55-592749	295
	8.2	55-595241	815
	9.1	55-585407	340
	9.2	55-595267	535
	9.3	55-592226	555
	9.4	55-591437	NA
<b>Other Water Sources in Gallons per Minute</b> —————→			<b>0 GPM</b>
<b>Fire Hydrants on System</b> —————→			<b>Yes</b>
<b>Total Water Pumped Last 12 Months (Gallons in Thousands)</b> —————→			<b>4,686,442</b>

J

**PUBLIC NOTICE OF AN APPLICATION FOR AN  
EXTENSION OF A CERTIFICATE OF CONVENIENCE AND NECESSITY  
BY ARIZONA-AMERICAN WATER COMPANY**

Arizona-American Water Company ("Arizona-American") has filed with the Arizona Corporation Commission ("Commission") an application for authority for an extension of its Certificate of Convenience and Necessity to provide water and sewer service to a contiguous area to its Agua Fria systems to serve the Tesota subdivision in portions of section 36, Township 2 North, Range 3 West of the Gila & Salt River Base & Meridian.

If the application is granted, Arizona-American would be the exclusive provider of water and sewer service to the proposed area. Arizona-American will be required by the Commission to provide this service under the rates and charges and terms and conditions established by the Commission. The granting of the application would not necessarily prohibit an individual from providing service to themselves from individually owned facilities on their property. The application is available for inspection during regular business hours at the offices of the Commission in Phoenix at 1200 West Washington Street, and at Arizona-American at 19280 North Seventh Street, Suite 201, Phoenix, Arizona.

The Commission will hold a hearing on this matter. As a property owner, or customer, you may be entitled to intervene in the proceeding. If you do not want to intervene, you may appear at the hearing and make a statement on your own behalf. You may contact the Commission at the address and telephone number listed below for the date and time of the hearing and for more information on intervention. You may not receive any further notice of the proceeding unless requested by you.

If you have any questions or concerns about this application or have any objections to its approval, or wish to make a statement in support of it, you may contact the Consumer Services Section of the Commission at 1200 West Washington Street, Phoenix, Arizona 85007 or call 1-800-222-7000.

**Exhibit M**

K

**RESOLUTION NO. 38-02**

**RESOLUTION DECLARING THE RESULT OF, AND ADOPTING A CERTIFICATE OF RESULT OF, THE SPECIAL ELECTION HELD ON SEPTEMBER 10, 2002; ORDERING THE RECORDING OF SUCH CERTIFICATE AND DECLARING AN EMERGENCY.**

**BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF BUCKEYE, ARIZONA, as follows:**

**Section 1.** After careful examination of the final official results of the special election held in and for the Town of Buckeye on September 10, 2002, it is found and determined by the Mayor and Council as follows:

(A) A majority of those qualified electors voting at the aforementioned special election voted in favor of the Franchise Agreement as shown on the attached Certificate of Result of Election;

(B) By the results of the election, the Mayor is authorized to sign the Franchise Agreement and the Clerk to attest such signature;

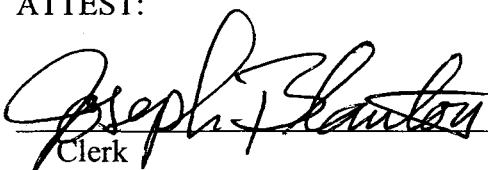
(C) The Mayor and members of this Council present this date will execute the attached Certificate of Result of Election;

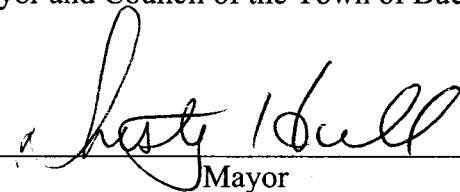
(D) The Clerk is hereby authorized and directed to attach the Certificate of Result of Election to the Franchise Agreement, entitled "Grant of Franchise by the Town of Buckeye to Arizona-American Water Company" and, once the Franchise Agreement is fully executed, to record the Franchise Agreement in the office of the County Recorder of Maricopa County, Arizona, and to return said copy with the recording data shown thereon to the official records of this body.

**Section 2.** The immediate operation of the provisions of this resolution is necessary for the preservation of the public peace, health and safety and an emergency is hereby declared to exist, and this resolution will be in full force and effect from and after its passage and approval by the Mayor and Council as required by law and it is hereby exempt from the referendum provisions of the Constitution and laws of the State of Arizona.

**PASSED AND ADOPTED** by the Mayor and Council of the Town of Buckeye, Arizona, on September 25, 2002.

ATTEST:

  
Clerk

  
Mayor

**CERTIFICATE**

I, Joseph Blanton, the duly appointed and acting Town Clerk of the Town of Buckeye, Arizona, do hereby certify that the above and foregoing Resolution No. 38-02 was duly passed by the Town Council of the Town of Buckeye, Arizona, at a special meeting held on September 25, 2002, and the vote was 7 aye's and 0 nay's and that the Mayor and 6 Council Members were present thereat.

  
\_\_\_\_\_  
Town Clerk

**CERTIFICATE OF THE MAYOR AND COUNCIL OF THE TOWN OF BUCKEYE,  
ARIZONA, RELATIVE TO THE SPECIAL ELECTION HELD IN AND FOR THE  
TOWN OF BUCKEYE, ARIZONA, ON SEPTEMBER 10, 2002.**

The Mayor and Council of the Town of Buckeye, Arizona, hereby certify as follows:

1. Pursuant to the resolution passed and adopted by the Mayor and Council on April 23, 2002, an election was duly and regularly held on September 10, 2002, for the purpose of authorizing the entry into a Franchise Agreement with Arizona-American Water Company to construct wastewater and water facilities in the streets, avenues, alleys, rights-of-way and easements of the Town and to provide water and wastewater (sewer) services to the residents and other users located within a Franchise Area.

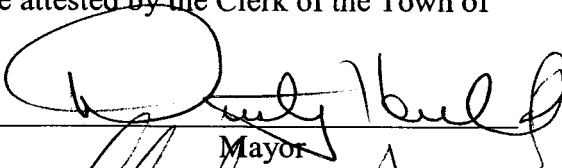
2. The election has been conducted and the official returns thereof have been filed as required by law and the total number of votes cast at the special election in answer to the question submitted were as follows:


<u>PRECINCT</u>	<u>VOTES, YES</u>	<u>VOTES, NO</u>	<u>TOTAL</u>
Buckeye 1	189	39	228
Buckeye 2	117	28	145
Gila Bend	0	0	0
Hassayampa	1	0	1
Liberty	61	34	95
Tuthill	0	1	1
Wittman	0	1	1
White Tank	4	0	4
<b>TOTAL</b>	<b>372</b>	<b>103</b>	<b>475</b>


The tabulated votes are set forth in the attached final results.

3. An executed copy of the Franchise Agreement, entitled "Grant of Franchise by the Town of Buckeye to Arizona-American Water Company" is attached to this Certificate.

**IN WITNESS WHEREOF**, the Mayor and members of this Council have hereunto placed their hands and caused the same to be attested by the Clerk of the Town of Buckeye on September 24, 2002.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Council Member

  
\_\_\_\_\_  
Council Member

Alice Charman

Council Member

Ch. P. Child

Council Member

W. D. D.

Council Member

Gamine Wein

Council Member

ATTEST:

Joseph F. Fenton

Clerk

THIS DOCUMENT MUST BE RECORDED IN THE OFFICE OF THE COUNTY  
RECORDER OF MARICOPA COUNTY, ARIZONA.



When recorded, return to:

Mr. Joe Blanton, Town Clerk  
101 North Apache, Suite A  
Buckeye, AZ 85326

**GRANT OF FRANCHISE BY THE TOWN OF BUCKEYE  
TO ARIZONA-AMERICAN WATER COMPANY**

GRANT OF FRANCHISE BY THE TOWN OF BUCKEYE  
TO ARIZONA-AMERICAN WATER COMPANY

Section 1. Grant of Franchise. There is hereby granted to Arizona-American Water Company, a corporation organized and existing under and by virtue of the laws of the State of Arizona (herein called "Grantee"), its successors and assigns, the right, privilege, and franchise to construct, maintain, and operate upon, over, along, across and under the present and future public rights-of-way (including but not limited to streets, alleys, ways, highways and bridges) in the portion of the Town of Buckeye, Arizona (herein called "Municipality"), that is described in the immediately following paragraph (the "Franchise Area"), a potable water delivery system and a wastewater collection, treatment and disposal system, together with all necessary or desirable appurtenances (including but not limited to wells, well sites, storage, pumping facilities, transmission mains, distribution mains, service lines, wastewater collection and transportation mains and treatment and disposal and equipment, fire hydrants, meters and equipment for their own use) (herein called the "Franchise"), for the purpose of supplying potable and non-potable water ("water services") and providing wastewater collection, treatment and disposal services ("wastewater services") to all individuals and entities within the limits of the Franchise Area (and to individuals and entities located beyond the present limits of Municipality) for all purposes. Notwithstanding Arizona Revised Statutes § 40-281(B) or any other law, Grantee shall not serve any customers within Municipality who are outside the

Franchise Area without first obtaining a separate franchise from Municipality for such services. Notwithstanding the foregoing, if Municipality annexes any area in Maricopa County that is within a certificated service area of Grantee, Grantee shall be entitled to continue to provide services in that area for the remaining term of the applicable county franchise.

For purposes of this Franchise, the Franchise Area comprises:

a. The area more particularly described in Exhibit A, which is Grantee's present certificated service area within Municipality established by the Arizona Corporation Commission.

b. The portion of Municipality more particularly described in Exhibit B which is located north of Interstate 10 and which is not within Grantee's present certificated area, provided, however, that (with respect to the area described in this paragraph (b)) water and wastewater services shall be provided by Grantee only within certificated service areas which are established by the Arizona Corporation Commission from time to time.

Section 2. Grantee's Compliance with Municipality Practice; Plans Submitted for Approval; Municipality Construction Near Grantee's Facilities. All construction under this Franchise shall be performed in accordance with established practices of Municipality with respect to such public rights-of-way. Before Grantee makes any installations in the public rights-of-way, Grantee shall submit for approval a map showing the location of such proposed installations to Municipality's Manager.

Section 3. Construction and Relocation of Grantee's Facilities. All facilities installed or constructed pursuant to this Franchise shall be so located or relocated and so erected as to minimize the interference with traffic, or other authorized uses over, under or through the public rights-of-way. Those places of construction of Grantee's facilities relating to traffic control,

backfilling, compaction and paving, as well as the location or relocation of facilities herein provided for, shall be subject to regulation by the Council of Municipality. Grantee shall keep accurate records of the location of all facilities in the public right-of-way and furnish them to Municipality upon request. Upon completion of new or relocation construction of underground facilities in the public right-of-way, Grantee shall provide Municipality's Manager with corrected drawings showing the actual location of the underground facilities in those cases where the actual location differs significantly from the proposed location approved in the permit plans.

Grantee shall protect, remove or relocate any of its facilities located in public rights-of-way, whether or not Grantee may have a prior right or easement predating the public right-of-way, as and when required by Municipality to accommodate right-of-way improvements. Such removal or relocation shall be done at the sole expense of Grantee on a determination by Council of Municipality that such removal or relocation is necessary.

Section 4. Indemnification. Grantee shall indemnify, defend and hold Municipality harmless from any and all claims, costs, losses or expenses incurred as a result of injury or damage to third persons occasioned by the exercise of this Franchise by Grantee.

Section 5. Restoration of Rights-of-Way. Whenever Grantee shall cause any opening or alteration whatever to be made for any purpose in any public right-of-way the work shall be completed with due diligence within a reasonable prompt time, and Grantee shall, upon completion of such work, restore the property disturbed to as good condition as it was prior to such openings or alteration. Grantee shall bear the full cost of any barricades, signing, rerouting of traffic, or other action or expense which Municipality shall consider necessary or desirable in the interest of public safety during any such opening or alteration within the public right-of-way.

Section 6. Franchise Fee. Grantee agrees to pay Municipality in consideration of the grant of this Franchise a sum equal to two percent (2%) of the gross receipts (excluding from gross receipts any taxes or levies based on gross receipts) of Grantee from sale by it of water or provision of wastewater services, within the Franchise Area, as shown by Grantee's billing records (the "Franchise Fee"). This Franchise Fee shall be due and payable quarterly. For the purpose of verifying the amounts payable hereunder, the books and records of Grantee shall be subject to inspection of duly authorized officers or representatives of Municipality at reasonable times.

The amount payable under the Franchise Fee shall not be reduced by reason of the payment of any general ad valorem taxes, assessments for special improvements, general sales or transaction privilege license taxes, or any similar general amount of such sales tax or similar levy measured by Grantee's receipts or sales within Municipality.

Section 7. Additional Fees. Notwithstanding any provision contained herein to the contrary, Grantee shall, in addition to the payment provided in Section 6, pay any occupation tax established by Municipality, provided the tax is a flat fee per year and that the annual amount of such fee does not exceed the amount of similar fees paid by the other businesses with comparable gross revenue from sales operated within Municipality.

Section 8. Term. This Franchise shall continue and exist for a period of twenty-five (25) years from and after the date of acceptance by Grantee.

This Franchise shall be void and of no effect if written acceptance thereof by Grantee is not filed in the office of the Clerk of Municipality within sixty (60) days after Municipality's verification of the franchise election results.

Section 9. Franchise; Non-Exclusive. This Franchise is not exclusive, and nothing herein contained shall be construed to prevent Municipality from granting other like or similar grants or privileges to any other person, firm or corporation, and Grantee may assign this Franchise to any other person, firm or corporation.

Section 10. Conflicting Ordinances. This agreement shall control over all ordinances and parts of ordinances in conflict with the provisions hereof, to the extent applicable to a franchised potable water and/or wastewater public service corporation.

Section 11. Independent Provisions. If any section, paragraph, clause, phrase or provision of this Franchise, other than Section 6, shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Franchise as a whole or any part of the provisions hereof other than the part so adjudged invalid or unconstitutional. If Section 6 shall be adjudged invalid or unconstitutional in whole or in part by a final judgment, this Franchise shall immediately terminate and shall be of no further force or effect.

Section 12. Condemnation; Right Reserved by Municipality. Municipality reserves the right and power to purchase and condemn the water and wastewater plant, equipment, properties and facilities of Grantee within the corporate limits or any additions thereto, as provided by law.

Section 13. Expiration. Municipality and Grantee hereby expressly agree that the following provision shall survive the termination or expiration of this Franchise: Upon the termination or expiration of the Franchise, if Municipality shall not have authorized an extension or renewal hereof, Grantee at its sole expense may remove its facilities and systems within the Franchise Area.

PASSED AND ADOPTED BY THE TOWN COUNCIL AND APPROVED  
BY THE MAYOR OF THE TOWN OF BUCKEYE, ARIZONA THIS 23<sup>rd</sup>  
DAY OF April, 2002.

Dustin Hull  
Mayor

ATTEST:

Joseph J. Hunter  
Town Clerk

APPROVAL AS TO FORM:

Gust Rosenfeld, P.L.C.

By: Gust Rosenfeld  
Special Counsel

STATE OF ARIZONA       )  
                                      ) ss.  
County of Maricopa       )

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of  
September, 2002, by Dustin Hull, as Mayor on behalf  
of the Town of Buckeye, an Arizona municipal corporation.

Linda Garrison  
Notary Public

My Commission Expires:

March 31, 2005



**EXHIBIT A**

**LEGAL DESCRIPTION AND MAP OF  
GRANTEE'S PRESENT CERTIFICATED  
AREA WITHIN MUNICIPALITY**

See attached legal description and map

**EXHIBIT A**



## EXHIBIT A

Legal description and map of Grantee's present certified area within Maricopa County, Arizona

Township 2 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona

All of Section 7; All of Section 18; All of Section 19; The South half of Section 20; All of Section 30; All of Section 31;

Township 2 North, Range 3 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona

All of Section 3; All of Section 10; All of Section 11; All of Section 12; All of Section 13; All of Section 23; All of Section 24; All of Section 25;

Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona

That portion of Section 6, Township 1 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona described as follows:

**BEGINNING** at the Northwest corner of said Section 6, said point also being the **TRUE POINT OF BEGINNING**; thence along the North line of Section 6, N 89°57'39"E, 2437.60 feet; thence S14°06'52"E, 206.19 feet; thence S00°04'51"E, 491.44 feet to a point on the Northerly right-of-way line of Interstate 10 and the beginning of a non-tangent curve; thence westerly along said curve having a radius of 11602.57 feet, concave Southerly, whose radius bears S02°39'27"E, through a central angel of 12°26'54", 2520.84 feet to a point on the West line of Section 6 and a point of intersection with a non-tangent curve; thence along the West line of N00°09'05"W, 1078.18 feet to the **TRUE POINT OF BEGINNING** and the end of this line description;

Township 1 North, Range 3 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona

The Northeast Quarter of Section 1. Excepting therefrom this description all land lying South of Interstate 10.

## EXHIBIT B

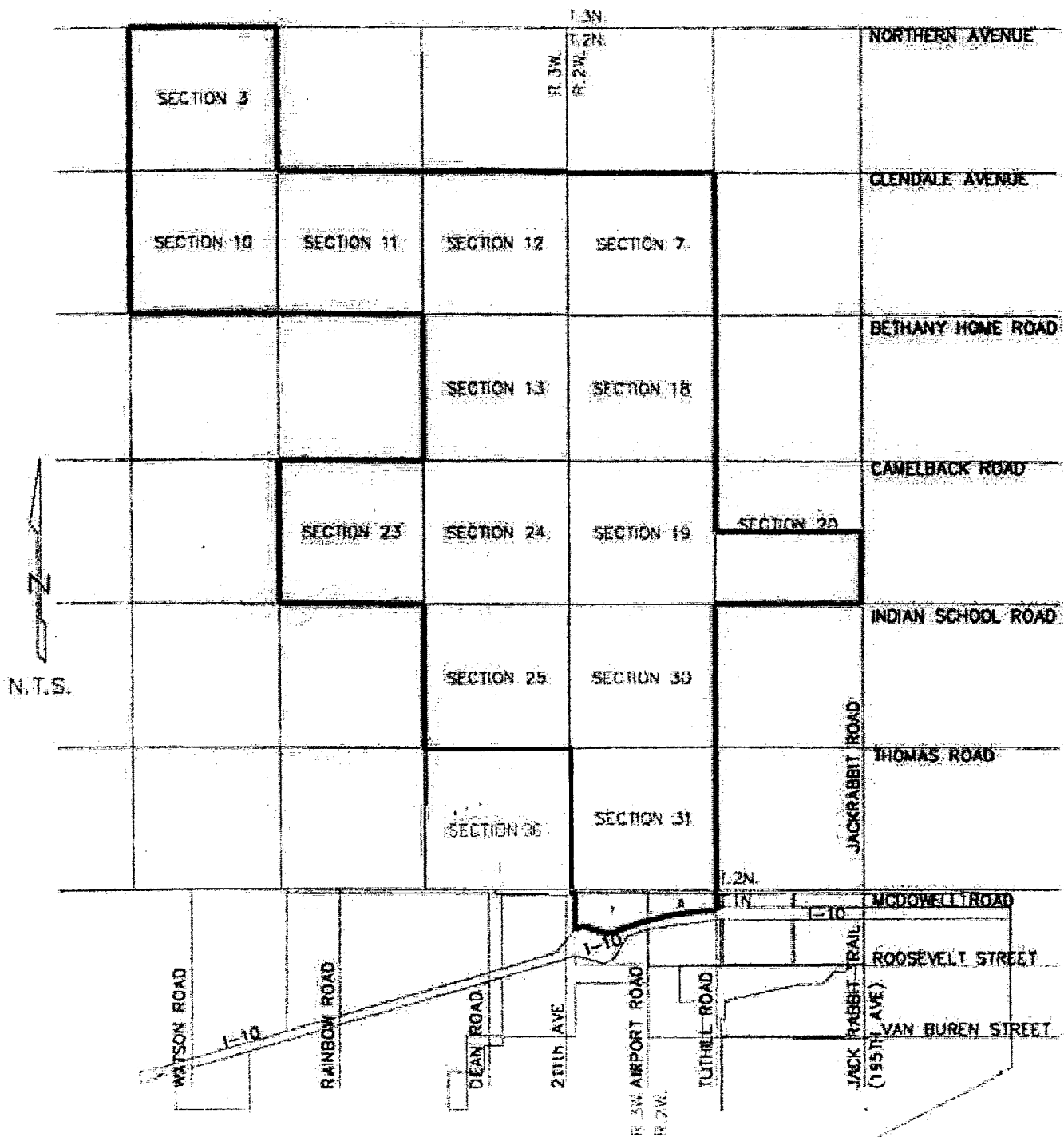
**PARCEL NO. 1:** The North 587.56 feet of the Southeast quarter of Section 36, Township 2 North, Range 3 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona; **EXCEPT** the East 741.36 feet thereof; and also **EXCEPT** that portion of said Northwest quarter of the Southeast quarter of said Section 36 which lies Westerly of the following described line: **BEGINNING** at a point on the South line of said Section 36, which point bears South 89 degrees 37 minutes 44 seconds West, 674 feet from the South quarter corner of said Section; **THENCE** North 24 degrees 36 minutes 58 seconds East, 2930.38 feet to a point on the East-West midsection lines of said Section 36, which point bears South 89 degrees 46 minutes 11 seconds West, 2090.00 feet from the East quarter corner of said Section 36; and also **EXCEPT** all mineral deposits and rights as reserved by the State of Arizona in Deed recorded in Docket 427, page 469, and as set forth in Patent from the United States of America recorded in Docket 2089, page 257.

**PARCEL NO. 2:** The Southeast quarter of Section 36, Township 2 North, Range 3 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona; **EXCEPT** the North 587.56 feet thereof; and also **EXCEPT** that portion of said Southeast quarter of Section 36 which lies Westerly of the following described line: **COMMENCING** at the East quarter corner of said Section 36; **THENCE** North 89 degrees 49 minutes 08 seconds West along the mid-Section line, a distance of 2090.00 feet to the **TRUE POINT OF BEGINNING**; **THENCE** South 24 degrees 25 minutes 35 seconds West a distance of 1324.48 feet to a point on the North to South mid-Section line of said Section 36, said point bearing North 00 degrees 02 minutes 28 seconds West, a distance of 1473.86 feet from the South quarter corner of said Section 36; and also **EXCEPT** all mineral deposits and rights as reserved by the State of Arizona in Deed recorded in Docket 427, page 469, and as set forth in Patent from the United States of America recorded in Docket 2089, page 257.

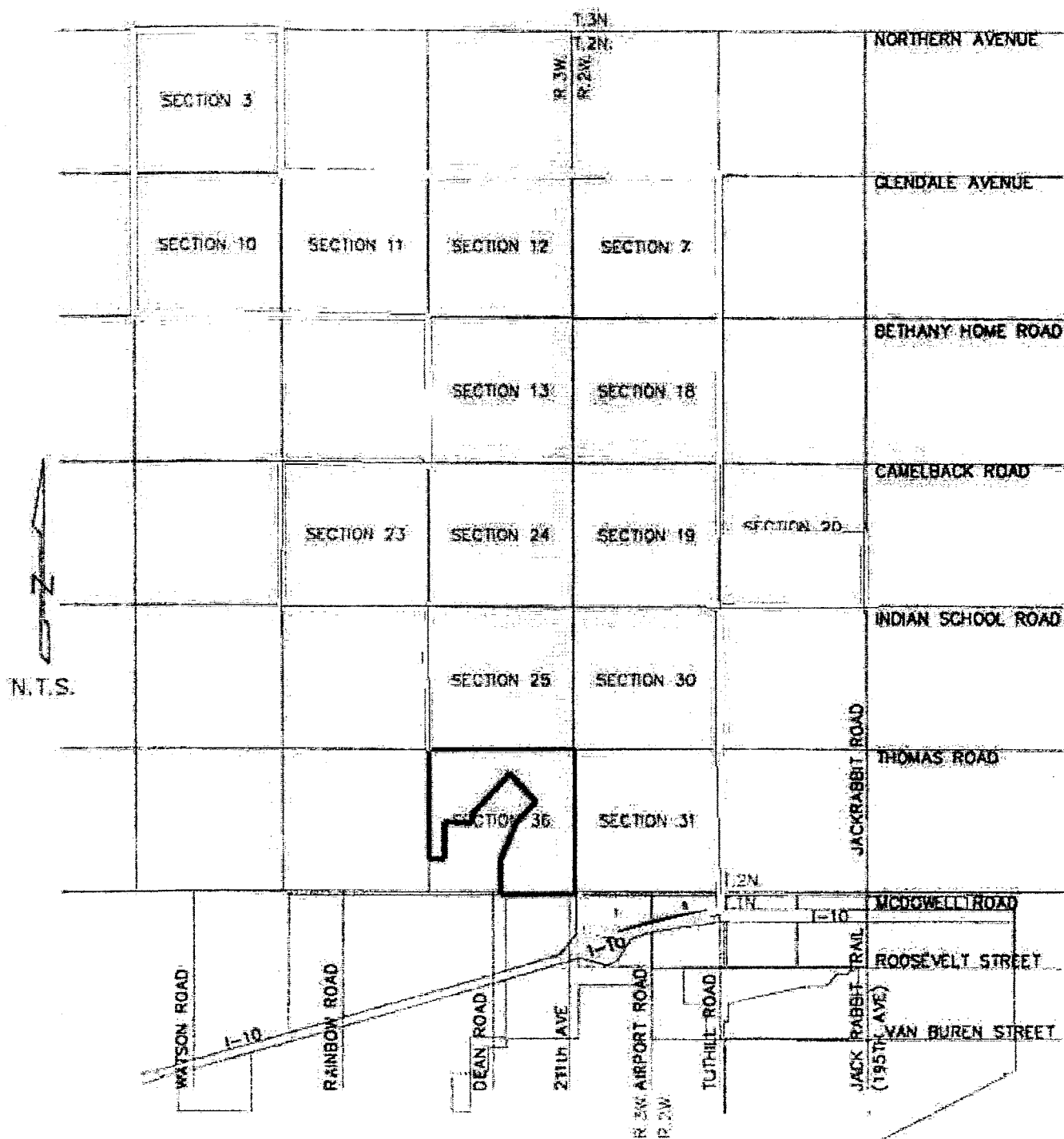
**PARCEL NO. 3:** The North 587.56 feet of the East 741.36 feet of the Southeast quarter of Section 36, Township 2 North, Range 3 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona. **EXCEPT** all mineral deposits and rights as reserved by the State of Arizona in Deed recorded in Docket 427, page 469, and as set forth in Patent from the United States of America recorded in Docket 2089, page 257.


**PARCEL NO. 4:** The North half and the North half of the Southwest quarter of Section 36, Township 2 North, Range 3 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona; **EXCEPT** the East half of the Northwest quarter of the Southwest quarter of said Section 36; and also **EXCEPT** the Northeast quarter of the Southwest quarter of said Section 36; and also **EXCEPT** that portion of the North half of said Section 36 described as follows: **BEGINNING** at a point on the East-West mid-Section line of said Section 36, which point bears South 89 degrees 46 minutes 11 seconds West, 2090.00 feet from the East quarter corner thereof; **THENCE** North 45 degrees 00 minutes 00 seconds East, 1000.00 feet; **THENCE** North 45 degrees 00 minutes 00 seconds West, 1300.00 feet; **THENCE** South 45 degrees 00 minutes 00 seconds West, 1877.87 feet; **THENCE** South 304.60 feet to the aforesaid East-West mid-Section line; **THENCE** North 89 degrees 46 minutes 11 seconds East along said East-West mid-Section line, a distance of 1540.00 feet to the point of beginning; and also **EXCEPT** all mineral deposits and rights as reserved by the State of Arizona in Deed recorded in Docket 427, page 469, and as set forth in Patent from the United States of America recorded in Docket 2089, page 257.

TOWN OF BUCKEYE  
 SECTIONS 3,10,11,12,13,23,24,25 AND 36  
 T2N., R3W., AND  
 SECTIONS 7,18,19,30,31 AND A PORTION  
 OF SECTION 20, T2N., R2W.,  
 OF GILA AND SALT RIVER BASE AND MERIDIAN,  
 MARICOPA COUNTY, ARIZONA



TOWN OF BUCKEYE  
 SECTIONS 3,10,11,12,13,23,24,25 AND 36  
 T2N., R3W., AND  
 SECTIONS 7,18,19,30,31 AND A PORTION  
 OF SECTION 20, T2N., R2W.,  
 OF GILA AND SALT RIVER BASE AND MERIDIAN,  
 MARICOPA COUNTY, ARIZONA



 PROPOSED FRANCHISE ELECTION AREA